

# Performance Agreement



**Made by and entered into between**

**Amahlathi Local Municipality  
("the employer")**

**Represented by the Mayor, MNCEKELELI PETER, duly authorized in terms  
of Section 57 (2) (c) of the Local Government: Municipal Systems Act No. 32  
of 2000**

**and**

**VUYOKAZI JEAN-FORTUNE MBELANI  
("Acting Municipal Manager")**

**In her capacity as the Acting Municipal Manager**

## **ACRONYMS**

<b>SDBIP</b>	-	Service Delivery and Budget Implementation Plan
<b>BEE</b>	-	Black Economic Empowerment
<b>EXCO</b>	-	Executive Committee
<b>IDP</b>	-	Integrated Development Plan
<b>HOD</b>	-	Head of Department
<b>LED</b>	-	Local Economic Development
<b>KPA</b>	-	Key Performance Area
<b>KPI</b>	-	Key Performance Indicators
<b>PDP</b>	-	Personal Development Plan
<b>PA</b>	-	Performance Agreement
<b>CCR</b>	-	Core Competency Requirement
<b>RSA</b>	-	Republic of South Africa
<b>SCM</b>	-	Municipal Supply Chain Management Policy
<b>Nedlac</b>	-	National Economic Development and Labour Council
<b>PMS</b>	-	Performance Management System

## **DEFINITIONS**

- Ruling Language** - Refers to the language parties to the contract choose to use as a medium for formal communication between themselves.
- Financial Year** - Refers to the 12-month period which the organization determines as its budget year.

## **GENERAL PROVISIONS**

### **1. INTRODUCTION**

- 1.1 The Employer has entered into a contract of employment with the Acting Municipal Manager for a period of three (3) months, ending on 12<sup>th</sup> August 2011, in terms of section 57(1) (a) of the Local Government: Municipal Systems Act 32 of 2000 (“the Systems Act”).
- 1.2 Section 57(1) (b) of the Municipal Systems Act, read with the contract of employment concluded between the parties, requires the parties to conclude an annual performance agreement. That the parties hereby agree to have this contract developed in terms of the Local Government: Municipal Performance Regulations for Municipal Managers and Managers Directly accountable to Municipal Managers, 2006.
- 1.3 The parties wish to ensure that they are clear about the goals to be achieved, and secure the commitment of the Acting Municipal Manager reporting to the Mayor representing the municipality, to a set of actions that will secure local government policy goals.
- 1.4 This performance contract is between **Vuyokazi Jean-Fortune Mbelani**, the Acting Municipal Manager, and **Mncekeleli Peter**, the Mayor. It is for the 2011/2012 financial year only. The expected performance reflected in this contract is based on the Integrated Development Plan 2011/2012 to 2015/2016 and Performance Management System. The two afore-mentioned documents have been adopted as the working documents of Amahlathi Local Municipality and therefore, shall be the basis of performance assessment.

### **2. STRATEGIC OBJECTIVE**

The Acting Municipal Manager has the overall responsibility of ensuring that the Municipality executes its functions properly and that all municipal departments get the supported in order to reach their targets as set in the Service Delivery and Budget Implementation plan. She also has a duty to support the Municipal Departments and Council as the vision of the municipality will not be realized if she does not perform her duties.

### **3. PERFORMANCE BONUS & ANNUAL SALARY ADJUSTMENT**

If the Acting Municipal Manager's performance achieves outstanding performance, she shall qualify for the annual performance bonus in accordance with clause 8.4 of the contract of employment entered into between the Mayor and the Acting Municipal Manager on 12 May 2011 as well as the results of the performance evaluation agreed to in this contract. The acceptability of the level of her performance or otherwise shall be determined and declared by the performance evaluation team in accordance with the provision of this agreement, following the receipt of a report on the General Manager's achievement or otherwise of the KPIs as reflected in Annexure "A" of this contract.

The annexure "A" mentioned above has listed Key Performance Areas (KPAs) and Core Competency Requirements (CCRs) that are worth a total of 100 points together. Each KPA and CCR consists of Objectives and Key Performance Indicators that have different weightings. The achievement of above 160 percent shall be regarded as 100% bonus warranting, as average and warranting a proportional percentage of performance bonus and a percentage below 130 percent and 80 percent shall warrant some form of recognition, and 60 percent and below shall require the employer to effect remedial measures that may include incapacity disciplinary enquiry.

A performance bonus for outstanding performance of effective performance shall only be effected after,

- I. The annual report for the financial year under review has been tabled and adopted by the municipal council;
- II. An evaluation of performance in accordance with the provisions of regulation 23 and this contract; and
- III. Approval of such evaluation by the municipal council as a reward for outstanding performance or effective performance.

The increment for 2011/2012 shall be based on clauses 8.2 and 8.3 of the Acting Municipal Manager's employment contract concluded between her and the Mayor and the provisions of the

Local Government: Municipal Performance Regulations for Municipal Managers directly accountable to Municipal Managers, 2006. The employer shall grant annual salary adjustment linked to a cost-of-living adjustment based on market indicators, which is not performance based.

#### **4. SUBMISSION OF QUARTELY PERFORMANCE REPORT & EVALUATING PERFORMANCE**

The employee shall submit the quarterly performance report within twelve (12) working days after the end of the quarter, which will be supported by hard evidence performance information. This report shall be subjected to auditing of performance measurements in terms of the Local Government Municipal Systems Act, 2000, Section 45 (1) (a) as part of the municipality's internal auditing processes.

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

The annual performance appraisal will involve:

- I. Assessment of the achievement of results as outlined in the performance plan;
- II. Assessing the extent to which the specified standards or KPIs have been met with due regards to ad-hoc tasks that had to be performed under the KPAs and CCRs.

The criteria upon which the performance of the employee shall be assessed consist of two components, both of which shall be contained in the performance plan:-

- I. The employee must be assessed against both components, with a weighting of **80:20** allocated to the KPAs and the CCRs respectively;
- II. Each area of assessment will be weighted and will contribute a specific part to the total score.

A five-point rating scale to be used for both KPAs and CCRs is the following:

Level	Terminology	Description	Rating				
			1	2	3	4	5
5	Outstanding Performance	Performance far exceeds the standard expected of an employee at this level. The key 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	Performance 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.					

The performance bonus payment shall be categorised in two bands with some ranges per band.

The first performance bonus (cash rewards) payment band ranges between 5% and 9% of the all-inclusive remuneration package, as follows:

- I. A score of 130% -138% to qualify for 5% bonus;
- II. A score of above 138%-148% to qualify for 7% bonus;
- III. A score of above 148%-149% to qualify for 9%.

The second performance bonus (cash rewards) payment band ranges between 10% and 14% of the all-inclusive remuneration package, as follows:

- I. A score of 150% - 155% to qualify for 10% bonus;
- II. A score of above 155% - 160% to qualify for 13% bonus;
- III. A score of above 160% to qualify for 14% bonus.

The performance achievement ranging between 80% and 129% shall be regarded as fully effective and therefore warranting the employer to acknowledge and or recognize, whichever is necessary. This category of performance acknowledgement and recognition is a non-financial rewards system, this will apply as follows:

- i. A score of 80% - 100% to get a letter of acknowledgement and recognition issued by the Municipal Manager;
- ii. A score of above 100% - 120% to get a recognition certificate from the Mayor;
- iii. A score of above 120% - 129% to get an academic/ skills development programme grant to a maximum of R20 000.00 only, this to be paid to the learning institution of choice. The selected programme must be linked to the personal development plan (Annexure B).

## **5. CONSEQUENCE OF SUBSTANDARD PERFORMANCE**

A level of performance achievement of below 60% shall warrant the employer to execute corrective measures that may include disciplinary measures due to incapacity.

Should the employee score below 60%, an appropriately designated person within the Provincial Department of Local Government and Traditional Affairs in support of the Mayor of the Council,

together with the Acting Municipal Manager concerned, develop a Remedial and Developmental Support Plan within 30 days of the midyear performance review to assist the employee to improve her performance. The design of the plan will be such that there should be performance improvement within 6 months of its implementation. The plan will clearly specify the responsibilities of the employer as well as the responsibilities of the employee with regard to its implementation. If after 6 months, during the end-year performance review, the manager concerned still achieves a score of less than 60% and the municipality has evidence or proof that it met its responsibilities in terms of implementing the remedial and developmental support plan, the municipality will consider steps to terminate the contract of the employee on the grounds of poor performance or operational incapacity.

## **6. DEVELOPMENTAL REQUIREMENTS**

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

## **7. RULING LANGUAGE**

The contract is made out in the English language, which shall be the ruling language. All correspondence between the parties to this contract and all reports and documents pertaining to this contract shall be in English language.

## **8. TERM OF AGREEMENT**

This agreement shall be deemed to have been entered into on the 1<sup>st</sup> July 2011 as per the special appointment arrangement of the Acting Municipal Manager as signed by the Superintendent General of the Department of Local Government and Traditional Affairs of the Province of the Eastern Cape. This Agreement will terminate on the date of termination of the Acting Municipal Manager’s contract of employment as per the afore mentioned Provincial Support to Amahlathi Municipality. A new agreement shall be entered into should the terms of the Provincial Support change or be reviewed.

## **9. LIMITATIONS OF THE AGREEMENT**

This contract is an agreement between the employer and the Acting Municipal Manager about the expected performance of the latter during the specified term. This contract is subject to the employment contract which the Acting Municipal Manager entered into on accepting her position and to South African legislation. In the case of any ambiguity, the employment contract shall prevail over this performance contract. Nothing contained in this Agreement in any way limits the right of the employer to terminate the Acting Municipal Manager's contract of employment with or without notice for any other breach by the Acting Municipal Manager of her obligations to the Municipality or for any other valid reason in law.

## **10. MONITORING AND EVALUATION**

The monitoring and performance reviews for each quarter as determined in the Local Government: Municipal Performance Regulations for Municipal Managers and Managers directly accountable to Municipal Managers, 2006 shall be comprised of the Mayor will be to assess the performance of the Acting Municipal Manager in line with the performance requirements as outlined in Annexure "A" of this contract. Despite the in-year reviews, the employer shall establish an assessment team to conduct an annual performance review composed as follows:

- I. Mayor of Amahlathi Municipality
- II. Chairperson of the audit committee
- III. Member of the executive committee
- IV. Mayor from another municipality
- V. Internal Audit shall provide secretariat services to the assessment team referred to above.

## **11. DISPUTE RESOLUTION**

In case of disputes, which cannot be resolved through negotiations and mediation, the employee has a right to refer the case to the Mayor who must settle the case within thirty (30) days of receipt

of a formal written dispute. The decision of the Mayor shall be deemed final and binding on both parties.

## **12. JURISDICTION**

Regardless of the place of execution, performance or domicile of the parties, this contract and all modifications and amendments hereof shall be governed by and construed under and in accordance with the laws of the Republic of South Africa.

## **13. WHOLE AGREEMENT**

The parties to this contract agree that this contract constitutes the whole agreement and arrangement for the performance of the Acting Municipal Manager with effect from 1<sup>st</sup> July 2011.

No agreement, varying, adding to, deleting from or canceling this contract, shall be effective unless reduced to writing and signed by both parties. The following appendices attached to this contract will have the same force and effect as if they were written in this section of the contract:

<b>ANNEXURE A:</b>	<b>SERVICE DELIVERY BUDGET IMPLEMENTATION PLAN</b>
<b>ANNEXURE B:</b>	<b>PERSONAL DEVELOPMENT PLAN</b>
<b>APPENDIX 1:</b>	<b>OBLIGATIONS OF THE EMPLOYER</b>
<b>APPENDIX 2:</b>	<b>OBLIGATIONS OF THE EMPLOYEE</b>
<b>APPENDIX 3:</b>	<b>COMMITMENT OF MANAGEMENT TEAM</b>

SIGNED at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 2011

**ACTING MUNICIPAL MANAGER**

Signature: \_\_\_\_\_

Name Printed: \_\_\_\_\_

**WITNESSES**

1. Signature: \_\_\_\_\_ Name Printed: \_\_\_\_\_

2. Signature: \_\_\_\_\_ Name Printed: \_\_\_\_\_

**FOR AND ON BEHALF OF AMAHLATHI LOCAL MUNICIPALITY**

**MAYOR OF THE MUNICIPALITY**

Signature: \_\_\_\_\_

Name Printed: \_\_\_\_\_

**WITNESSES**

1. Signature: \_\_\_\_\_ Name Printed: \_\_\_\_\_

2. Signature: \_\_\_\_\_ Name Printed: \_\_\_\_\_

#### 14. CORE COMPETENCIES REQUIREMENTS (CCRs)

OBJECTIVES	WEIGHTING	KPI's	TARGETS			
			QUALITY	QUANTITY	TIME	MEANS OF VERIFICATION
Strategic Capability and Leadership	2	Adoption of the IDP PMS Budget	Acceptable credible IDP PMS Budget	100%	30-06-2011	Approved copy of IDP PMS BUDGET
People Management and empowerment	2	IGR		100 %		
Financial Management						
Communication	2			100 %		
Knowledge of developmental Local Government	2	Councillors and Employees to understand their roles towards basic service delivery		100%		
Knowledge of performance management and reporting	2	Monthly reports	According to approved format and content coverage	100%	30-06-2011	Copy of the monthly report

OBJECTIVES	WEIGHTING	KPI's	TARGETS			
			QUALITY	QUANTITY	TIME	MEANS OF VERIFICATION
Client orientation and customer focus	2	Decreased customer complaints	According to the SDIP	100%	30-06-2011	Increase in performance standards
Interpretation of and implementation within the legislative and national policy framework	2					
Financial management	2	Adherence to Municipal policy and applicable legislation	All transactions comply with the SCM policy and regulations	100%	quarterly	Reduced numbers of audit queries and reduced roll overs
Knowledge of Performance Management, review and reporting	2			100%	quarterly	Reviewed Quarterly reports
Change management	2	Stakeholder ownership	Uninterrupted operations	100%		Stable relations with labour
<b>TOTAL</b>	<b>20</b>					

**NB:** All performance requirements have a deadline of 30 June 2012, unless stated otherwise in the requirements

## ANNEXURE “B”

### PERSONAL DEVELOPMENT PLAN

Name: VUYOKAZI JEAN-FORTUNE MBELANI

JOB TITLE: ACTING MUNICIPAL MANAGER

EMPLOYER: AMAHLATHI LOCAL MUNICIPALITY

YEAR : 2011/2012

Competency to be addressed	Proposed actions	Responsibility	Time-frame	Expected outcome
<u>Monitoring and Evaluation</u>	<u>Formal training</u>	<u>Mayor and Acting Municipal Manager</u>		<u>NQF Level ?</u> <u>Set performance goals and measures; to formulate development plans and monitor and evaluate performance and of policy.</u>
<u>Minimum Competency Levels for Municipalities and Municipal entities</u>			<u>February 2012</u>	<u>NQF Level 6</u>

## APPENDIX 1

### 1. OBLIGATIONS OF THE EMPLOYER (KEY ASSUMPTIONS)

#### 1.1 Office Accommodation

During the full period of the performance agreement the employer shall provide adequate office accommodation for the General Manager. The occupational cost including the attendant ground rent obligations will be borne by the Employer.

#### 1.2 Personnel

The employer shall be required to hire managers reporting directly to the General Manager.

#### 1.3 Facilities and Equipment

1.3.1 During the full period of the performance contract, the employer shall avail to the General Manager all existing facilities and equipment which he will need in executing his duties.

#### 1.4 Other provisions

##### 1.4.1 Approvals

The Employer shall make a decision/comment on items submitted for approval/comment within two (2) week of receipt of the items.

##### 1.4.2 Tasks to the Employer

The employer undertakes to execute all crucial activities that fall under his responsibility as required by this contract in order not to derail the continuity of department operations. If there is failure on the employer's part and the General Manager feels that the attainment of targets of this contract is at stake, the two parties will meet and agree on the way forward.

#### 1.4.3 Substitution of the Acting Municipal Manager

The employer reserves the right to take appropriate action to replace the Acting Municipal Manager as per employment contract of the Acting Municipal Manager.

## APPENDIX 2

### OBLIGATIONS OF THE HOD

#### Conditions of service -

1. The MM shall be the Head of the municipality, subject to the conditions of service as stipulated by the employer. The conditions of service of the MM shall include but not restricted to:
  - a. Setting of specific targets for managers reporting to him/her.
  - b. Advise Mayor on all matters including progress made in the implementation of the SDBIP and PMS.
  - c. Setting and monitoring of performance indicators for the institution and execute corrective measures as and when necessary.
  - d. Ensuring that the departmental assets are in good working condition.
  - e. Provision of high quality service within the municipality in a cost effective manner within agreed time frames.
  - f. Completing and submitting performance reports for the institution, to the Mayor on a monthly and quarterly basis for information purposes.
  - g. Assessing performance reports for the HODs and officials in the Office of the Municipal Manager where necessary.
  - h. Preparation of the Office of the Municipal Manager's budget and once approved adhering to it.
  - i. Implementing strategies to improve the morale of staff.
  - j. Attending meetings and other occasions on behalf of the department/municipality.
2. The MM shall ensure that her/his staff has access and is well informed about disciplinary procedure of the municipality.
3. Making recommendations to the Council to hire staff in the institution as the need arises.
4. Determining the optimum staff level necessary for the accomplishment of targets and advising the employer on reduction or increase of staff in the department. Staff restructuring or reduction will utilize the existing municipal "staff pool" as will be mutually agreed between the employer and the MM in fulfilment of the current staff reduction policy.

- If such staff is to be laid off due to staff reduction policy, the cost of severance and other terminal benefits shall be borne by the employer as required by the Labour Laws of RSA.
5. Carrying out all the necessary departmental staff training as shall be mutually agreed with the employer.

**Standard of Service -**

1. The MM shall exercise all his skills, reasonable care, responsibility and diligence in discharge of his duties under this contract. The MM shall do so with sound professional conduct in accordance with generally accepted standards.
2. Nothing in this agreement diminishes the obligations, duties or accountabilities of the MM in terms of his contract of employment, or the effects of existing or new regulations, circulars, policies, directives or other instruments.

**Supervision of Personnel in the Municipality -**

1. The MM undertakes to supervise personnel in his/her department. If she/he is dissatisfied with performance of any staff, provisions of the relevant internal policy and legislative framework of RSA shall apply.
2. The MM shall exercise all means at his/her disposal to bring to the attention of the municipality any factors that are exposing the municipality to undue risk and also propose ways to mitigate and or bring to an end such activities.
3. The MM must exercise utmost supervision on his/her subordinates in such a way that abuse of municipal property is mitigated and that the subordinates in the process of carrying out their work the municipal code of conduct is adhered to. If not, it is the duty of the MM to ensure that the perpetrators in the departments are brought to book.

**Targets and Milestones -**

1. The MM shall do all in her/his power to achieve the targets and milestones indicated in the municipal IDP and Performance Management System.
2. The MM undertakes to achieve the parent targets, which shall be directly related to the expected improvement in the level of services and therefore improvement in the quality of life within the municipality. The parent targets are those defined as performance

requirements as detailed in the SDBIP scorecard of the Organisational SDBIP Scorecard in the case of the MM.

### **Reporting -**

1. The MM shall submit detailed quarterly reports on the operations of the institution department to the employer. The reports shall include details of achievement of targets and milestones for that quarter for information purposes.
2. The quarterly report should reach the employer within 12 days after the quarter in question has lapsed.
3. The MM also undertakes to submit any other report/s as required by the employer, in the required format and also respect the submission route through the specified Council structures as entailed in the PMS Framework.

### **Expenditure -**

1. The MM shall be responsible for the implementation of the approved operational and capital budget of the institution.

### **Service delivery and financial planning -**

1. The MM shall be responsible for strategic service delivery and financial planning of the department and is expected to provide utmost diligence in the IDP Budget processes.
2. She/he shall be a member of the IDP structures and shall make his/her time available to prepare and attend these structures meetings, including all the Council structures' meetings as these meetings are compulsory for management and middle management of your department where appropriate.
3. Performance evaluation assessment sessions as well as performance evaluation panels are compulsory and should be scheduled within reasonable time with the employee.
4. In situations where the employee is unable to present himself/herself to the evaluation panel/session, it is incumbent of the employee to provide a written letter explaining reasons for non attendance and request rescheduling within reasonable time for the employer shall have make arrangements for the performance evaluation panel/s with

financial commitments, hence, the performance evaluation panel schedules must be planned accordingly and rescheduled where necessary and if reasonable possible for such rescheduling.

5. Failure to avail oneself to the performance evaluation panel shall/may lead to zero score for that period under review.

**Maintenance of assets (Fixed and movable) in the Municipality –**

1. The MM shall assist the Council in the maintenance of assets of the municipality.

**Purchases -**

1. Municipal Manager undertakes to utilise an existing Municipal Supply chain Management (SCM) to handle all procurements in the municipality, according to the provisions of this contract. No procurements shall be allowed to proceed outside the approval of the SCM and the municipal Internal Auditor shall ensure that no payments are effected contrary to this agreement.

**OTHER PROVISIONS**

**Unforeseen conditions**

1. There may be some unforeseen conditions necessary for the success of this performance contract. If either party discovers such circumstances, during the course of operation of this performance contract, the matter shall be brought to the attention of the other, in writing. A meeting, whose timing shall be mutually agreed, shall then be convened to discuss the outstanding issues. The minutes of such a meeting shall form an addendum to this contract.

### APPENDIX 3

#### **Commitment of Management Team Directly Reporting to the Municipal Manager**

We, .....name ..... (job title), .....Name (job title)..... name (job title) hereby make this commitment to carrying out the functions to the best of our ability as detailed in the indicator targets in the Institutional score card as cascaded to the Section that each of us are responsible for. As support managers we understand that the MM targets are impossible to achieve without our full support and cooperation. We, therefore, accept both our individual and collective responsibilities towards the attainment of the set targets.

1. Signed by: .....  
Name: .....  
Job title: .....
  
2. Signed by: .....  
Name: .....  
Job title: .....
  
3. Signed by: .....  
Name: .....  
Job title: .....