

**DRAFT PERFORMANCE AGREEMENT**

**MADE AND ENTERED INTO BY AND BETWEEN**

**CAPRICORN DISTRICT MUNICIPALITY  
AS REPRESENTED BY THE EXECUTIVE MAYOR**

**JOHN MPE**

.....

**AND**

**THUSO NEMUGUMONI**

.....

**ACTING MUNICIPAL MANAGER**

**FOR THE FINANCIAL YEAR:  
1 JULY 2021 TO 30 JUNE 2022**

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**WHEREBY IT IS AGREED AS FOLLOWS:**

**1. INTRODUCTION**

- 1.1 The Municipality has, in terms of Section 57(1)(a) of the Local Government: Municipal Systems Act, No. 32 of 2000 ("the Systems Act") entered into a contract of employment with the Municipal Manager for a period of 3 months, commencing on 06 July 2021.
- 1.2 Section 57(1)(b) of the Systems Act, read with the contract of employment concluded between the Parties, require the Parties to conclude an annual performance agreement.
- 1.3 The Parties wish to ensure that they are clear about the goals to be achieved, and secure the commitment of the Municipal Manager to a set of outcomes that will secure local government policy goals.
- 1.4 The Parties wish to ensure that there is compliance with Sections 57(4A), (4B) and (5) of the Systems Act as well as the contract of employment entered into by the Parties.
- 1.5 In this Agreement the following words will have the meaning ascribed thereto:

"this Agreement" - means the performance agreement between the Municipality and the Municipal Manager and the annexures thereto.

"the Executive Authority" - means the Executive Committee of the Municipality constituted in terms of Section 43 of the Local Government: Municipal Structures Act as represented by its chairperson, the Mayor.

"the Manager" – means Senior Manager directly accountable to the Municipal Manager in terms of Section 56(a) of the Systems Act.

"the Municipal Manager" – means the Municipal Manager appointed in terms of Section 54 of the Local Government: Municipal System Act, No. 32 of 2000.

"the Municipality" – means .....Municipality.

"the Parties" - means the Municipal Manager and the Executive Mayor.

## **2. PURPOSE OF THIS AGREEMENT**

- 2.1 The Parties agree that the purposes of this Agreement are to:
- 2.1.1. 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;
  - 2.1.2. specify objectives and targets defined and agreed with the Municipal Manager and to communicate to the Municipal Manager the Municipality's expectations of the Municipal Manager's performance and accountability in alignment with the Integrated Development Plan (IDP), the Service Delivery Business Implementation Plan (SDBIP) and the budget of the Municipality;
  - 2.1.3. specify accountabilities as set out in a performance plan.
  - 2.1.4. monitor and measure performance against targeted outputs and outcomes;
  - 2.1.5. use performance plan as a basis for assessing the Municipal Manager for permanent employment and/or to assess whether the Municipal Manager has met the performance expectations applicable to his/her job;
  - 2.1.6. appropriately reward the Municipal Manager in accordance with the Municipality's performance management policy in the event of outstanding performance;
  - 2.1.7. establish a transparent and accountable working relationship; and
  - 2.1.8. give effect to the Municipality's commitment to a performance-orientated relationship with its Municipal Manager in attaining equitable and improved service delivery.

## **3. COMMENCEMENT AND DURATION**

- 3.1 Notwithstanding the date of signature this Agreement will commence on the **1<sup>st</sup> of July 2021** and will remain in force until a new performance agreement including a Performance Plan and Personal Development Plan is concluded between the Parties as contemplated in Clause 3.2
- 3.2 The Parties will review the provisions of this Agreement during June each year. The Parties will conclude a new performance agreement including a Performance Plan and Personal Development Plan that replaces this Agreement at least once a year by not later than the 31<sup>st</sup> of July each year.
- 3.3 The payment of the performance bonus is determined by the performance score obtained during the annual performance assessment as informed by the quarterly performance assessments.

- 3.4 The payment of a performance bonus for the year in which the Municipal Manager's contract of employment expires will be done as set out in clause 3.3
- 3.5 In the event of the Municipal Manager commencing or terminating his services with the Municipality during the validity period of this Agreement, the Municipal Manager's performance for the portion of the period referred to in clause 3.1 during which he was employed, will be evaluated and he will be entitled to a pro rata performance bonus based on his evaluated performance and the period of actual service.
- 3.6 The content of this Agreement may be revised at any time during the abovementioned period to determine the applicability of the matters agreed upon by the Parties.
- 3.7 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.
- 3.8 This Agreement will terminate on the termination of the Municipal Manager's contract of employment for any reason.

#### 4. PERFORMANCE OBJECTIVES

- 4.1 The Performance Plan in **Annexure A** sets out:
- 4.1.1 the performance objectives and targets which must be met by the Municipal Manager; and
  - 4.1.2 the time frames within which those performance objectives and targets must be met.
- 4.2 The Core Competency Requirements (CCRs) reflected in **Annexure B** set out those management skills regarded as critical to the position held by the Municipal Manager.
- 4.3 The Personal Development Plan in **Annexure C** sets out the Municipal Manager's personal developmental requirements in line with the objectives and targets of the Municipality.
- 4.4 The performance objectives and targets reflected in Annexure A are set by the Municipality in consultation with the Municipal Manager and based on the IDP, SDBIP and the budget of the Municipality, and include key objectives, key performance areas, target dates and weightings.

- 4.5 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 time frame in which the work must be achieved. The weightings show the relative importance of the key objectives to each other.
- 4.6 The Municipal Manager's performance will, in addition, be measured in terms of contributions to the development objectives and strategies set out in the Municipality's Integrated Development Plan.

## **5. PERFORMANCE MANAGEMENT SYSTEM**

- 5.1 The Municipal Manager agrees to participate in the performance management system that the Municipality adopts or introduces for the municipal management and municipal staff of the Municipality.
- 5.2 The Municipal Manager accepts that the purpose of the performance management system will be to provide a comprehensive system with specific performance standards to assist the municipal management and municipal staff to perform to the standards required.
- 5.3 The Executive Committee/Council will consult the Municipal Manager about the specific performance standards that will be included in the performance management system as applicable to the Municipal Manager.
- 5.4 The Municipal Manager undertakes to actively focus towards the promotion and implementation of his/her Key Performance Areas as set out in the performance plan including special projects relevant to the Municipal Manager's responsibilities within the local government framework.

## **6. PERFORMANCE ASSESSMENT**

The performance of the Municipal Manager will be assessed against the outputs and outcomes achieved in terms of his/her Key Performance Areas (KPA's) as fully described in performance plan and his/her Core Competency Requirements (CCRs) determined at the commencement of this Agreement with a weighting of 80:20 allocated to the KPA's and CCRs respectively. Therefore the KPA's that refer to the main tasks of the Municipal Manager account for 80% of his/her assessment while the CCRs make up the other 20% of the Manager's assessment score.

The weightings agreed to in respect of the Municipal Manager's KPA's attached as Annexure A are set out in the table below:

<b>KEY PERFORMANCE AREAS (KPAS)</b>	<b>WEIGHT</b>
KPA 1: Municipal Transformation and Institutional Development	17,5%
KPA 2: Basic Service Delivery	32,2%
KPA 3: Local Economic Development	8,7%
KPA 4: Financial Viability	11,8%
KPA 5: Good governance and public participation	26%
KPA: Spatial Rationale	3.8%
<b>TOTAL PERCANTAGE</b>	<b>100%</b>

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The weightings agreed to in respect of the CCRs considered most critical for the Municipal Manager's position and further defined in **Annexure C** are set out in the table below:

<b>CORE COMPETENCY REQUIREMENTS - CCRs</b>				
<b>CORE MANAGERIAL COMPETENCIES (CMC)</b>	<b>CHOICE</b>	<b>WEIGHT</b>	<b>CURRENT LEVEL(1-5)</b>	<b>DESIRED LEVEL</b>
Strategic Capability and Leadership	✓	10%	4	5
Programme and Project Management	✓	10%	4	5
Financial Management	<b>Compulsory</b>	10%	4	5
Change Management	✓	3%	3	4
Knowledge Management	✓	2%	3	4
Service Delivery Innovation	✓	3%	3	4
Problem Solving and Analysis	✓	10%	4	5
People Management and Empowerment	<b>Compulsory</b>	10%	4	5
Client Orientation and Customer Focus	<b>Compulsory</b>	7%	4	5
Communication	✓	5%	3	4
Honesty and Integrity	✓	5%	3	4

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CORE OCCUPATIONAL COMPETENCIES (COCs)				
CORE MANAGERIAL COMPETENCIES (CMC)	CHOICE	WEIGHT	CURRENT LEVEL(1-5)	DESIRED LEVEL
Competence in Self Management				
Interpretation of and implementation within the legislative and national policy frameworks	✓	5%	4	5
Knowledge of Developmental Local Government	✓	5%	4	5
Knowledge of Performance Management and Reporting	✓	10%	4	5
Knowledge of Global and SA specific political, social and economic contexts				
Competence in Policy Conceptualisation, Analysis and Implementation	✓	2%	4	5
Knowledge of more than one functional municipal field or discipline				
Mediation Skills				
Governance Skills				
Competence as required by other national line sector departments				
Exceptional and dynamic creativity to improve the functioning of the Municipality				
100% implementation of RMC resolutions	✓	1%	4	5
100% implementation of mitigations actions due.	✓	1%	4	5
100% implementation of the Impact of the mitigations measures	✓	1%	4	5.

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The assessment of the performance of the Municipal Manager will be based on the following levels for KPAs and CCRs:

LEVEL	TERMINOLOGY	DESCRIPTION	RATING				
			1	2	3	4	5
5	Outstanding Performance	Performance far exceeds the standard expected of an employee at this level. The appraisal indicates that the employee has achieved above fully effective results against all performance criteria and indicators as specified in the PA and Performance Plan and maintained this in all areas of responsibility throughout the year.					
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.					

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1	Unacceptable Performance	Performance does not meet the standard expected for the job. The review / assessment indicates that the employee has achieved below fully effective results against almost all of the performance criteria and indicators as specified in the PA and Performance Plan. The employee has failed to demonstrate the commitment or ability to bring performance up to the level expected in the job despite management efforts to encourage improvement.						
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An indicative rating on the five-point scale should be provided for each KPA and CCR using the following as guidance:

1	Unacceptable
2	Not fully effective
3	Fully effective
4	Above expectations
5	Outstanding

Each KPA and CCR 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 to determine which rating on the five-point scale did the Manager achieved. The following criteria could assist:

Duration of task	<ul style="list-style-type: none"> <li>- Was the target achieved within the projected time frame?</li> </ul>
Level of complexity	<ul style="list-style-type: none"> <li>- Required problem solving</li> <li>- Reconciling different perceptions</li> <li>- Innovative alternatives used</li> </ul>
Cost	<ul style="list-style-type: none"> <li>- within budget</li> <li>- saving</li> <li>- overspending</li> </ul>

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Constraints	<ul style="list-style-type: none"> <li>- Did envisaged constraints materialise?</li> <li>- If so, were steps taken to manage/reduce the effect of the constraint?</li> <li>- If not, did it beneficially affect the completion of the target?</li> <li>- Any innovative/pro-active steps to manage the constraint</li> </ul>
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An applicable assessment rating calculator must be used to add the KPA and CCR scores and calculate final KPA and CCR percentages.

## 7. PANEL AND SCHEDULE FOR PERFORMANCE ASSESSMENTS

An assessment panel consisting of the following persons must be established to evaluate the performance of the Municipal Manager.

- Executive Mayor or Mayor
- Chairperson of the Performance Audit Committee or Audit Committee in the absence of a performance audit committee.
- Member of the Mayoral/Executive Committee or in respect of a plenary type Municipality, another member of Council
- Mayor and/or Municipal Manager from another Municipality
- Member of ward committee as nominated by the Executive Mayor or Mayor

The performance of the Municipal Manager will be assessed in relation to his/her achievement of:

- the targets indicated for each KPA
- the CCRs as defined in Annexure C

on a date to be determined for each of the following quarterly periods:

- 1<sup>st</sup> Quarter - July to September
- 2<sup>nd</sup> Quarter - October to December
- 3<sup>rd</sup> Quarter - January to March
- 4<sup>th</sup> Quarter - April to June

The Municipality will keep a record of the mid-year and annual assessment meetings.

The Municipality may appoint an external facilitator to assist with the annual assessment.

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The manager responsible for the corporate services of the Municipality must provide secretariat services to the evaluation panel for the performance assessment.

## **8. EVALUATING PERFORMANCE**

The Municipal Manager will submit quarterly performance reports and a comprehensive annual performance report prior to the performance assessment meetings to the Executive Mayor.

The Executive Mayor will give performance feedback to the Municipal Manager after each quarterly and the annual assessment meetings.

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

At the end of the 4<sup>th</sup> quarter, the Executive Authority will determine if the Municipal Manager is eligible for a performance bonus as envisaged in his/her contract of employment.

The results of the annual assessment and the scoring report of the Municipal Manager for the purposes of bonus allocation, if applicable, will be submitted to the Executive Authority for a recommendation to the full Council.

Personal growth and development needs identified during any performance assessment discussion, must be documented in the Manager's Personal Development Plan as well as the action steps and set time frames agreed to.

Despite the establishment of agreed intervals for assessment, the Executive Mayor may, in addition, review the Municipal Manager's performance at any stage while his/her contract of employment remains in force.

## **9. OBLIGATIONS OF THE MUNICIPALITY**

The Municipality will create an enabling environment to facilitate effective performance by the Municipal Manager.

The Municipal Manager will be provided with access to skills development and capacity building opportunities. The Municipality will work collaboratively with the Municipal Manager to solve problems and generate solutions to common problems that may impact on the performance of the Municipal Manager.

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The Municipality will make available to the Municipal Manager such resources including employees as the Municipal Manager may reasonably require from time to time to assist him/her to meet the performance objectives and targets established in terms of this Agreement; provided that it will at all times remain the responsibility of the Municipal Manager to ensure that he complies with those performance obligations and targets.

The Municipal Manager will, at his/her request, be delegated such powers by the Municipality as may in the discretion of the Municipality be reasonably required from time to time to enable him/her to meet the performance objectives and targets established in terms of this Agreement.

## **10. CONSULTATION**

10.1 The Executive Committee/Council agrees to consult the Municipal Manager within a reasonable time where the exercising of the Executive Authority's powers will –

10.1.1 have a direct effect on the performance of any of the Municipal Manager's functions;

10.1.2 commit the Municipal Manager to implement or to give effect to a decision made by the Executive Committee/Council

10.1.3 have a substantial financial effect on the Municipality.

10.2 The Executive Mayor agrees to inform the Municipal Manager of the outcome of any decisions taken pursuant to the exercise of powers contemplated in 10.1 as soon as is practicable, to enable the Municipal Manager to take any necessary action without delay.

## **11. CONSEQUENCE OF UNACCEPTABLE OR POOR PERFORMANCE**

11.1 Where the Executive Mayor is, at any time during the Municipal Manager's employment, not satisfied with the Municipal Manager's performance with respect to any matter dealt with in this Agreement, the Executive Mayor will give notice to the Municipal Manager to attend a meeting with the Executive Mayor.

11.2 The Municipal Manager will have the opportunity at the meeting to satisfy the Executive mayor of the measures being taken to ensure that the Municipal Manager's performance becomes satisfactory in accordance with a documented programme, including any dates, for implementing these measures.

11.3 The Municipality will provide systematic remedial or developmental support to assist the Municipal Manager to improve his/her performance.

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- 11.4 If, after appropriate performance counseling and having provided the necessary guidance and/or support as well as reasonable time for improvement in performance, the Executive Mayor holds the view that the performance of the Municipal Manager is not satisfactory, the Municipal Council will, subject to compliance with applicable labour legislation, be entitled by notice in writing to the Municipal Manager, to terminate the Municipal Manager's employment in accordance with the notice period set out in the Municipal Manager's contract of employment.
- 11.5 Where there is a dispute or difference as to the performance of the Municipal Manager under this Agreement, the Parties will confer with a view to resolving the dispute or difference.
- 11.6 Nothing contained in this Agreement in any way limits the right of the Municipality to terminate the Municipal Manager's contract of employment with or without notice for any other breach by the Municipal Manager of his obligations to the Municipality or for any other valid reason in law.
- 12. DISPUTES**
- 12.1 In the event that the Municipal Manager is dissatisfied with any decision or action of the Executive Committee/Council in terms of this Agreement, or where a dispute or difference arises as to the extent to which the Municipal Manager has achieved the performance objectives and targets established in terms of this Agreement, the Municipal Manager may meet with the Executive Mayor with a view to resolving the issue. At the Municipal Manager's request the Executive Mayor will record the outcome of the meeting in writing.
- 12.2 If any dispute about the nature of the Municipal Manager's performance agreement whether it relates to key responsibilities, priorities, methods of assessment or any other matter provided for cannot be resolved through an internal mechanism as contemplated above, the dispute will be mediated by the Mayor within thirty (30) days of receipt of a formal dispute from the Municipal Manager whose decision shall be final and binding on both Parties.
- 12.3 If any dispute about the outcome of the Municipal Manager's performance evaluation cannot be resolved through an internal mechanism as contemplated above, the dispute will be mediated by a member of the Council, provided that such member was not part of the evaluation panel provided for in clause 7, within thirty (30) days of receipt of a formal dispute from the Municipal Manager whose decision shall be final and binding on both Parties.
- 12.4 In the event that the mediation process contemplated above fails, the relevant arbitration clause of the contract of employment will apply.

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**13. GENERAL**

13.1 The contents of this Agreement and the outcome of any review conducted in terms of Annexure "A" will not be confidential, and may be made available to the public by the Municipality.

13.2 Nothing in this Agreement diminishes the obligations, duties or accountabilities of the Municipal Manager in terms of his/her contract of employment, or the effects of existing or new regulations, circulars, policies, directives or other instruments.

Signed at Botlokwane ..... on this 16 ..... day of  
July ..... 2021.

**As Witnesses:**

1. [Signature] .....
2. ....

Turlemugumoni .....  
Acting Municipal Manager

Signed at Botlokwane ..... on this 16th ..... day of  
July ..... 2021.

**As Witnesses:**

1. ....
2. ....

.....  
Executive Mayor

Skills/performance gaps	Outcomes Expected	Suggested training /development activity	Suggested mode of delivery	Suggested timeframes	Work opportunity to practice skill/development area	Support person
Strategic and Leadership	General Understanding of Strategic Leadership processes	Strategic and Leadership course	Training	5 years	Compliance with Strategic and Leadership processes	Municipal Manager
Budget financial and supply chain management processes	General Understanding of Municipal budgetary processes, interpretation of the financial and SCM processes	Financial Management course	Training	5 years	Compliance to financial processes of the municipality	Municipal Manager
Audit Processes	General Understanding of Municipal budgetary processes, interpretation of the financial and SCM processes	Financial Management course	Training	5 years	Compliance with Audit processes	Municipal Manager

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<b>Risk Management</b>	<b>General Understanding of Risk management processes</b>	<b>Risk management</b>	<b>Training</b>	<b>5 years</b>	<b>Compliance with Risk Management processes</b>	<b>Municipal Manager</b>
<b>Grievance and disciplinary processes</b>	<b>General Understanding of disciplinary processes</b>	<b>Labour relations</b>	<b>Training</b>	<b>5 years</b>	<b>Compliance with disciplinary processes</b>	<b>Municipal Manager</b>
<b>Supply chain Management processes</b>	<b>General Understanding of Supply Chain Management processes</b>	<b>Supply chain course</b>	<b>Training</b>	<b>5 years</b>	<b>Compliance with disciplinary processes</b>	<b>Municipal Manager</b>
<b>Performance monitoring and reporting</b>	<b>General Understanding of performance monitoring and reporting</b>	<b>Performance monitoring and reporting</b>	<b>Training</b>	<b>5 years</b>	<b>Compliance with Performance monitoring and reporting</b>	<b>Municipal Manager</b>

Alenugumbri

16/07/2022

EXECUTIVE MAYOR

EXECUTIVE MANAGER

DATE