

SUPERVISOR
Rick Galardi

CLERK
Adam Cramton

TREASURER
Sandy Stump




1401 W. Herbison Road, DeWitt, MI 48820-7900

TRUSTEES
David Fedewa
Steven Smith
Brian Ross
David Seeger

MANAGER
Andrew Dymczyk

TO: Township Board

FROM: Andrew Dymczyk, Township Manager 

SUBJECT: Fire Chief Contract

DATE: November 23, 2022

At the end of 2022, the contract for Fire Chief DeKorte is set to expire. I've met with Chief DeKorte to discuss his employment contract and would recommend extending and approval of an employment agreement for the position of Fire Chief with Mr. Dave DeKorte effective January 1, 2023, expiring December 31, 2024.

Attached is an employment agreement and a 2023 Wage Schedule.

STRATEGIC PLAN:

Strategic: Fiscal and Organizational Excellence

Strategies: Maintain sound fiscal policy and budgets that allow the Township to address service needs and maintain community quality

Objectives: Evaluate individual Departments for options

SUGGESTED ACTION:

Concur with the Manager's Office recommendation to extend and approve the employment agreement for the position of Fire Chief with Mr. Dave DeKorte effective January 1, 2023 at Grade 10 Step 6 expiring December 31, 2024.

EMPLOYMENT AGREEMENT

This Employment Agreement (the "Agreement"), is made and entered into this ____ day of _____, 20__, between the Charter Township of DeWitt, Michigan, a Michigan municipal corporation (the "Employer" or "Township") and David DeKorte ("Employee").

RECITALS:

WHEREAS, the Township requires the services of a qualified person to serve as the Fire Chief; and

WHEREAS, the Township desires to employ the services of Mr. DeKorte as Fire Chief and Mr. DeKorte wishes to accept this employment.

NOW, THEREFORE, in consideration of the promises and mutual covenants contained in this Agreement the parties agree as follows:

Section 1. Duties.

1.1 The Fire Chief shall be deemed to be a full time employee of the Township and shall perform all duties as required and directed by the Township Manager including, but not limited to, those stated in the attached Job Description. The Employee agrees that at all times he will, faithfully and to the best of his ability, experience and talents, perform all the duties that may be required of him. It is understood that the Fire Chief shall be responsible to the Township Board through the Township Manager, or another person so designated by the Township Board.

Section 2. Salary.

2.1 Effective January 1, 2023, Employee shall receive an annual salary in the amount of Eighty-Nine Thousand, Three Hundred Ninety Five Dollars and Five Cents (\$89,395.05) payable in equal bi-weekly installments for services rendered pursuant to this Agreement. In the event of termination of employment, the Employee salary shall be pro-rated to the effective date of his termination.

2.2 **Business Expenses.** In addition, Employee shall be reimbursed for reasonable expenses incurred on behalf of the Township.

2.3 In subsequent years, the annual salary shall be reviewed. Subject to the last sentence of this paragraph, the percentage increase in salary shall not be less than that given to non-contract, non-union employees if Employee received a satisfactory or better annual evaluation of his performance. A less than satisfactory annual evaluation may result in no increase in salary or an increase in salary below that given to non-

contract, non-union employees. Annual evaluation results shall not, however, result in a reduction in the then current compensation without Employee's mutual agreement. The final salary will be established by the Board.

Section 3. Annual Evaluation.

3.1 The Township Manager shall evaluate the performance of the Employee annually in advance of December 15th of each year of the Agreement. The evaluation shall be based upon goals, performance objectives, and the attainment of the Board's policy objectives using specific criteria developed jointly by the Township and Employee.

Section 4. General Fringe Benefits.

4.1 The Employee shall be provided the same economic fringe benefits as extended to other Township employees through the Township Policy Manual, including the same Pension, Life and Disability Insurance, Optical, Health and Dental Insurance, Holidays, Personal Leave Days, Sick Leave, and Funeral Leave. Payouts upon termination shall be provided per the Township Policy Manual, except for early terminations per Section 12.3 of this contract.

4.2 The Employee shall receive 144 hours of Vacation time. Vacation time will be used in accordance of provisions of the Township policy Manual. The Fire Chief shall select vacation days during periods of time less disruptive to the operations of the Township, provided, however, that the Fire Chief shall not take more than ten (10) days consecutively or within a three week period without the prior consent of the Township Board. Unused vacation time may be accumulated up to a maximum of ten (10) days.

4.3 The Township will provide the uniforms and accessories of the Township's Fire Department.

Section 5. Hours of Work.

5.1 It is recognized that the Fire Chief must devote time outside of normal office hours to the business of the Township, and to that end, the Fire Chief will be allowed flexibility in maintaining office hours consistent with his responsibility as a professional. The Fire Chief shall not receive any compensatory time or overtime pay for any hours worked in excess of eight (8) hours per day or forty (40) hours per week. It is understood that the Fire Chief will be required to attend Township Board and Public Safety Commission meetings at the request of the Township Board or Township Manager. Attendance at these and other meetings will be without additional compensation or compensatory time. As the chief officer of the Fire Department, the parties understand that the Fire Chief is exempt from the overtime requirements of federal and state law.

5.2 If the Township Board modifies the normal work schedules and related compensation for non-union employees, such as the use of furlough days, the normal work schedule and related compensation of the Fire Chief will be subject to similar modification.

Section 6. Travel.

6.1 The Township shall pay for the reasonable and customary travel expenses of the Employee for meetings and for seminars adequate to continue the professional development of Employee and to adequately pursue necessary official and other functions for the Township.

6.2 Employee may utilize a Township motor vehicle in the performance of his duties if said vehicle, in the opinion of the Manager, is available. Otherwise, the Employee shall use his personal vehicle and shall be reimbursed for such use at the rate currently allowed by the IRS for tax purposes.

Section 7. Professional Development.

7.1 The Township recognizes its obligation to the professional development of the Employee, and agrees that the Employee shall be given adequate opportunities to develop his skills and abilities as an Administrator; and, the Employee agrees to participate in professional development activities provided such participation does not consume a disproportionate amount of time and contribute to a failure on the part of the Employee to discharge his duties as determined by the Township Manager. Approved continuing education time shall not be construed as vacation time.

7.2 The Township agrees to budget and pay for professional dues and subscriptions of the Employee reasonably related to professional growth, development, education and training of the Employee.

Section 8. Liability Insurance.

8.1 The Township provides liability coverage, including public official's errors and omissions, applicable to damages for bodily injury, property damage or wrongful acts as covered by such policy that covers the Employee while acting in the course of employment and within the scope of his authority.

Section 9. Outside Employment.

9.1 The Employee shall not engage in any outside or supplemental employment or business outside of this Agreement, except when approved in advance by the Township Manager and then only if Employee:

- 1) Does not use the Township's facilities as a source of referral for private customers or clients.
- 2) Does not engage in outside employment during the Employee's regular working hours.
- 3) Does not use the name of the Township or its Board members as a credential in advertising or soliciting customers or clients.
- 4) Does not use the Township's supplies, facilities, staff, or equipment in conjunction with any outside or supplemental employment or private practice.
- 5) Maintains a clear separation of outside or supplemental employment from activities performed for the Township.
- 6) Does not cause any conflict of interest, or any possible appearance of conflict of interest, or any impairment of the independent and impartial performance of the Employee's duties.

9.2 The Township and Township Board shall not be liable, either directly or indirectly, for any activities performed during outside or supplemental employment. Should the Township Manager so approve, such approval may be revoked at any time, and the Township shall not be liable for any activities undertaken by the Employee during outside employment.

Section 10. Conflict of Interest Prohibition.

10.1 The Employee shall not without the express prior approval of the Township Board, individually, as a partner, joint venture, officer or shareholder, invest or participate in any business venture conducting business in the corporate limits of the Township, except for stock ownership in any company whose capital stock is publicly held and regularly traded.

10.2 Except for purchase of a personal residence, the Employee shall not own or invest in any real property within the corporate limits of the Township, without prior notification to the Township Board.

Section 11. Term.

11.1 This Agreement shall commence on January 1, 2023 and continue through December 31, 2024, unless terminated earlier as provided in this Agreement.

Section 12. Termination.

12.1 The Employee shall serve at the pleasure of the Township Board, acting through itself or the Manager. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the Township Board or Manager to terminate the services of the Employee at any time.

12.2 For purposes only of determining whether severance pay is due, this Agreement may be terminated by written notice to Employee for just cause. For the purposes of this agreement "just cause" is defined to include, but is not limited to:

- A. An act of fraud, embezzlement, theft, other similar material dishonest conduct, or other material violation of law that occurs in connection with the Employee's job duties or in the course of the Employee's employment with the Township;
- B. The Employee's willful and continued failure to perform substantially the principal aspects of the Employee's job duties, if that failure continues after 60 days' written notice to the Employee (other than as a result of physical or mental illness or incapacity);
- C. An intentional action or a failure to act by the Employee that is materially injurious, monetarily or otherwise, to the Township, its property, or its assets;
- D. An intentional action or a failure to act that constitutes material insubordination;
- E. The Employee's conviction of or plea of guilty or no contest to a felony under any state or federal statute;
- F. The Employee's absence by reason of physical or mental illness, incapacity, or other inability to perform substantially the Employee's job duties under this Agreement for a period of 180 calendar days in any 360 day period.
- G. Failure to obtain and maintain the certifications and licenses required by the State of Michigan or the Township as are necessary for Employee to serve as the Township's Fire Chief and for him to perform all of the duties set forth in the job description for the position of Fire Chief.

Employee may appeal the Manager's termination decision to a committee of the Township Board upon written request within fourteen (14) days of the date of the Manager's decision. If no such request is submitted, or it is untimely, the decision of the Manager shall be final and binding upon the Employee and all further appeal or challenge to such decision shall be waived by the Employee.

12.3 The Township may terminate Employee's services for any reason not specified in Section 12.2 above, including, but not limited to, the reason that the Employer, in its sole discretion, deems it to be in the best interest of the Employer, by providing Employee ninety (90) days' prior written notice of such termination or intent of not renewing this Agreement for an additional period of time. If employment is terminated as authorized in this Section 12.3, the Township may permit Employee to perform services under this Agreement until the effective date of termination or require Employee to cease

employment and performance of services at any time during the ninety (90) day notice period. If Employee is not permitted to continue performance of services during the ninety (90) day notice period, he shall continue to receive salary and benefits set forth in this Agreement until the effective date of the termination, provided Employee does not obtain other employment nor receive unemployment benefits during this period. Should Employee obtain other employment, or receive unemployment benefits, the salary and benefits shall cease upon the effective date of the receipt of such other employment or unemployment benefits. Such severance pay shall constitute agreed, stipulated, and liquidated damages and constitute the maximum amount of financial liability for which the Township may be liable in the event of termination or breach of contract. There shall be no right of appeal from termination under this Section.

12.4 Employee agrees to provide a minimum of ninety (90) days advance written notice to the Township of his intent to terminate the Agreement. Failure to provide requisite notice shall result in the forfeiture of all accumulated leave pay. The Employer may waive the advance written notice requirement.

12.5 If Employee dies during the term of his employment, the Township shall pay to Employee's estate all the compensation which would otherwise be payable to Employee up to the date of Employee's death and the Contract shall terminate as of such date.

12.6 Upon termination of employment, Employee shall return all Township documents, correspondence, files, papers, or property of any kind, in all type or nature relating to the Township, in Employee's possession or control.

Section 13. Miscellaneous.

13.1 *Limitation of Actions.* Arbitration is the exclusive remedy for resolving disputes arising under this Agreement. In addition, and notwithstanding, should either party bring a suit, appeal, claim, demand, or any other legal challenge against the other party arising out of or related to the Employee's employment or this Agreement, the parties agree that such claim must be brought within 182 calendar days of the event precipitating the dispute or giving rise to the claim, or within the applicable statute of limitations, whichever is sooner. After such time, the parties agree that any claim or dispute is waived and no action, suit or demand may be maintained thereon.

13.2 *Complete Agreement:* It is understood and agreed that this document incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein and that the parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this document. It is understood and agreed that this Contract shall supersede and take precedence over any other document, handbook, manual, benefit plan or other material which could otherwise

be construed as being contractual in nature, whether in existence prior to, currently or subsequent to the execution of this Contract, unless such other document, handbook, manual, plan or material is made expressly applicable to the Employee by formal resolution of the Township Board. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further understood that no Township official or personnel has authority to enter into any employment contract with the Employee for any specified period of time, or to make any agreement contrary to the provisions herein, except when the same is approved by the Township Board through a formal resolution.

13.3 *Amendment:* No amendment or modification of this Agreement shall be binding upon the Township unless such amendment shall be approved by Resolution of the Township Board, and the Manager, and until a copy of such Resolution is provided to all the parties to this Agreement, and the modification, amendment or alteration in the terms or conditions contained herein is reduced to a written document and executed in the same fashion as this Agreement.

13.4 *Severability:* If any provision, or any portion thereof, contained in this Agreement is held to be unconstitutional, illegal, invalid, or unenforceable, the remainder of this Agreement, or portion thereof, shall not be affected and shall remain in full force and effect.

13.5 *No Waiver:* The waiver by either party of a breach of any provision of this Agreement by the other shall not operate or be construed as a waiver of any subsequent breach by that party.

13.6 *Non-Assignment:* The rights and obligations herein granted are personal in nature and cannot be transferred or assigned by the Employee. This section shall not be construed to prohibit the delegation of duties to subordinate Township employees normally delegated by the Employee as part of his exercise of his supervisory authority.

13.7 *Governing Law and Venue:* Michigan law shall govern this Agreement and any litigation which may arise from this Agreement shall be filed and litigated in Clinton County, Michigan. Both parties consent and agree to the jurisdiction and venue of the Circuit Court for the County of Clinton.

13.8 *Waiver of Jury Trial:* Both the Township and the Employee knowingly, voluntarily, and irrevocably waive their right to a trial by jury in any civil proceedings that may be initiated by either party with respect to any term or condition of this Agreement.

13.9 *Disregarding Titles:* The titles of the sections set forth in this Contract are inserted for the convenience of reference only and shall be disregarded when construing or interpreting any of the provisions of this Contract.

13.10 *Non-Discrimination:* The Employee, as required by law, shall not discriminate against any person seeking services with the Township because of race, color, height, weight, marital status, religion, national origin, age, sex, or disability or any other classification protected by state or federal law. Breach of this covenant may be regarded as a material breach of this agreement.

13.11 *Employee's Best Efforts:* The Employee agrees that at all times he will faithfully and to the best of his ability, experience and talents, perform all the duties that may be required of him.

13.12 *Compliance with the Law:* The Employee shall perform all his respective duties and obligations hereunder in complete compliance with all applicable Federal, State and local statutes, laws, ordinances, rules and regulations.

13.13 *Residency:* The Employee shall not be required to live within the boundaries of the Charter Township of DeWitt.

IN WITNESS WHEREOF, the Township, by signature of the Township Manager and Clerk as authorized by motion adopted _____, 202_, and Employee have signed and executed this Agreement the day and year first above written.

IN THE PRESENCE OF:

CHARTER TOWNSHIP OF DEWITT

By: _____
_____, Clerk

By: _____
_____, Manager

EMPLOYEE

By: _____
David DeKorte

DeWitt Charter Township
2023 Wage Schedule - effective January 1, 2023
Classification and Wage Scale

% Increase 1.0400

Grade	Steps								
	1	2	3	4	5	6	7	8	9
1	12.98	13.46	13.96	14.45	14.93	15.42	15.92	16.40	16.89
2	16.49	17.11	17.73	18.34	18.96	19.59	20.21	20.82	21.44
3	18.24	18.93	19.61	20.30	20.98	21.66	22.35	23.03	23.71
4	19.16	19.89	20.61	21.33	22.05	22.77	23.49	24.22	24.92
5	21.85	22.67	23.49	24.32	25.14	25.96	26.78	27.60	28.41
6	22.95	23.80	24.66	25.52	26.38	27.24	28.10	28.96	29.83
7	24.55	25.47	26.39	27.31	28.23	29.16	30.08	31.00	31.92
8*	63,409.90	65,787.91	68,165.92	70,542.68	72,920.70	75,298.71	77,676.72	80,053.48	82,431.50
9*	71,018.04	73,681.01	76,345.23	79,008.20	81,671.18	84,334.15	86,998.37	89,661.35	92,324.32
9A**	34.14	35.42	36.70	37.98	39.26	40.55	41.83	43.11	44.39
10*	75,280.04	78,103.54	80,925.79	83,749.29	86,571.55	89,395.05	92,217.30	95,040.80	97,863.06

Ass't Chief	3641.64	yearly	Fire Photographer	17.04
Captains (2)	2913.87	yearly	Fire Marshal	22.16
Lieutenants (3)	2184.72	yearly	Fire Support Staff	15.00
Engineer	728.46	yearly		

Trainee	15.00
Trainee with Medical License only	15.50
Trainee with Fire Fighter I & II only	16.00
Trainee with Medical License and Fire Fighter I & II	16.50
Regular rate with Medical License only	18.27
Regular rate with Fire Fighter I & II only	18.27
Regular rate with Medical License and Fire Fighter I & II	20.28
Training Pay	15.00

Grade	Position
1	Police Department Assistant
2	Admin Assistant I
3	Maintenance Worker, Firefighter
4	Admin Assistant II, Fire Inspector, Code Enforcement
5	Deputy Clerk & Treasurer, Maintenance Supervisor
6	
7	Assistant to the Township Manager, Planner, Assistant Assessor
8	Deputy Building Official
9	Assessor, Community Dev., Ass't Manager
10	Fire Chief, Chief of Police, Chief Building Official

*Exempt

**Non Exempt/Hourly