

**AN ORDINANCE TO AUTHORIZE AND APPROVE AN AGREEMENT
BETWEEN THE CITY OF WILMINGTON AND THE LERRO
CORPORATION FOR ON-SITE ENGINEERING SERVICES FOR THE WITN
TV STATION**

#0014

Sponsor:

Council
Member
Johnson

WHEREAS, pursuant to Section 2-308 and Section 8-200 of the City Charter, the City of Wilmington is authorized to enter into contracts for the supply of personal property or the rendering of services for a period of more than one year if approved by City Council by ordinance; and

WHEREAS, the City desires to enter into an agreement (the "Agreement") with The Lerro Corporation ("Lerro") for on-site engineering services for the WITN TV station, a copy of which, in substantial form, is attached hereto and incorporated by reference herein as Exhibit "A"; and

WHEREAS, the term of the Agreement is for the period from March 1, 2021 through December 31, 2024, at an estimated price of One Thousand Two Hundred Fifty Dollars (\$1,250.00) per month; and

WHEREAS, it is the recommendation of City Council that the City enter into the Agreement with Lerro for the period from March 1, 2021 through December 31, 2024.

**NOW, THEREFORE, THE COUNCIL OF THE CITY OF WILMINGTON
HEREBY ORDAINS:**

SECTION 1. The Agreement between the City of Wilmington and The Lerro Corporation, a copy of which Agreement, in substantial form, is attached hereto as Exhibit "A," for the period from March 1, 2021 through December 31, 2024, at an estimated price of One Thousand Two Hundred Fifty Dollars (\$1,250.00) per month, is hereby approved, and the President of City Council, or his designee, is hereby authorized to execute as many copies of the Agreement, as well as take all additional undertakings related thereto, as may be necessary.

SECTION 2. This Ordinance shall become effective upon its passage by City Council and approval by the Mayor.

First Reading..... February 4, 2021
Second Reading..... February 4, 2021
Third Reading.....

Passed by City Council,

President of City Council

ATTEST: _____
City Clerk

Approved this ____ day of _____, 2021.

Mayor

SYNOPSIS: This Ordinance authorizes the execution of an agreement with The Lerro Corporation for on-site engineering services for the WITN TV Station for the period from March 1, 2021 through December 31, 2024, at an estimated price of One Thousand Two Hundred Fifty Dollars (\$1,250.00) per month.

FISCAL IMPACT STATEMENT: The fiscal impact of this Ordinance is a contract for the period from March 1, 2021 through December 31, 2024, at an estimated price of One Thousand Two Hundred Fifty Dollars (\$1,250.00) per month and a total estimated price of Fifty-Seven Thousand Five Hundred Dollars (\$57,500.00).

W0113194

EXHIBIT A

**AGREEMENT BETWEEN THE CITY OF WILMINGTON
AND THE LERRO CORPORATION**

THIS AGREEMENT (this "Agreement"), dated the ____ day of _____, 2021, is made by and between the **CITY OF WILMINGTON** (the "City"), by and through Wilmington City Council, and **THE LERRO CORPORATION** ("Lerro").

WHEREAS, the City desires to obtain on-site engineering services at the WITN TV station on a monthly basis; and

WHEREAS, the City has engaged Lerro to perform the aforementioned services.

NOW THEREFORE, WITNESSETH that the City and Lerro, in connection with their mutual promises made below, agree as follows:

- A. **Scope of Services.** Lerro shall provide on-site engineering services to the City at the City's WITN TV station on a monthly basis as directed by the City. These services shall include, but not be limited to, the services specified herein.
- (1) Lerro shall provide at least one (1) monthly on-site visit to the City to perform engineering services, including, but not limited to, maintenance checks of all video equipment. The City is entitled to a maximum of two (2) on-site visits per month.
 - (2) WITN will keep a list of work that needs to be performed by Lerro. On the scheduled service day(s), Lerro shall complete as much of that work as possible. Lerro shall perform the jobs that WITN prioritizes as the most important first. Lerro shall use the remainder of the service day(s) for routine preventive maintenance. Routine preventive maintenance includes cleaning all video recorders, equipment setup, and adjustment or reconfiguration of equipment.
 - (3) If there is unfinished work that cannot wait until the next month's service time, Lerro shall perform the work during the current month and either bill the City for the additional time at a rate agreed upon by the City and Lerro or use the scheduled service time for the next month to complete the unfinished work in the current month. If such a situation arises, Lerro shall contact the City and allow the City to choose the option it prefers.
 - (4) On-site repair, if possible, of any malfunction that occurs during normal use of the equipment shall be covered by this Agreement.
- B. **Term.** The term of this Agreement shall be from March 1, 2021 to December 31, 2024.
- C. **Compensation.** For services rendered by Lerro to the City under this Agreement, the City shall pay to Lerro One Thousand Two Hundred Fifty Dollars (\$1,250.00)

per month, for a total amount of Fifteen Thousand Dollars (\$15,000.00) per year. The monthly service charge does not include the cost of replacement parts or repairs to equipment that must be sent to Lerro's service facility for repairs. Lerro shall submit monthly bills and reports of its services to the City starting one month from the commencement date of this Agreement. The City shall make payments for Lerro's services within thirty (30) days of receipt of undisputed invoices for the services. In the event that any funds paid by the City under this Agreement are used for purposes other than those specifically stated herein or otherwise approved by the City in writing, Lerro may be required to reimburse the City up to the total amount of such funds.

- D. **General Terms and Conditions.** The City of Wilmington General Terms and Conditions, attached as Exhibit A to this Agreement, are incorporated herein and shall become an integral part of this Agreement.
- E. **Time.** Time is of the essence in this Agreement.
- F. **Lack of Waiver.** Failure by the City to enforce any term of this Agreement shall not constitute a waiver of such term in the future or prevent the City from enforcing such term or otherwise strictly exercising all of its rights under this Agreement at any time.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first written above.

CITY OF WILMINGTON

Witness

Ernest "Trippi" Congo
City Council President
800 North French Street, 9th Floor
Wilmington, DE 19801

THE LERRO CORPORATION

Witness

Matthew Murphy
Secretary Treasurer
Valley Forge Corporate Center
905 Madison Avenue
Norristown, PA 19403

EXHIBIT A

CITY OF WILMINGTON GENERAL TERMS AND CONDITIONS

(the Agreement as supplemented by these General Terms and Conditions shall hereinafter be referred to collectively as the "Agreement")

1. **Insurance Coverage.** The Lerro Corporation (the "Contractor") shall provide insurance coverage for itself and all of its employees, if any, used in connection with the Agreement as follows: workers' compensation as required by law; comprehensive general liability coverage for personal injury, including death, and property damage in the minimum amount of One Million Dollars (\$1,000,000.00); and professional liability coverage in the minimum amount of One Million Dollars (\$1,000,000.00). Such policies shall be issued by a financially sound carrier and/or carriers and shall be subject to the reasonable approval of the City of Wilmington ("City"). Contractor shall provide the City with a certificate of insurance evidencing the above-stated coverage and naming the City as an additional insured.

2. **Use of Subcontractors.** Contractor may use qualified consultants, subconsultants, or subcontractors to perform the services required under this Agreement upon the approval of the City.

3. **Discrimination and Harassment.** In the performance of this Agreement, the parties agree that they shall not discriminate or harass, or permit discrimination or harassment, against any person because of age, sex, marital status, race, religion, color, national origin or sexual orientation.

4. **Indemnification.** Contractor shall defend, indemnify, and hold harmless the City, its employees, agents, and officers, from and against any and all claims, damages, actions, liabilities and expenses, including reasonable attorneys' fees, resulting from the negligent acts or omissions of Contractor, its employees, agents, subcontractors, consultants, or subconsultants in performing the services required under this Agreement.

5. **Records.** Contractor shall maintain accounts and records, including personnel, property, and financial records, adequate to identify and account for all costs pertaining to this Agreement and such other records as may be deemed necessary by the City to assure proper accounting for all project funds. Such records shall be made available for audit purposes to the City or its authorized representatives upon request.

6. **Reports and Information.** Contractor, at such time and in such form as the City may require, shall furnish the City such reports as the City may request pertaining to the work or services undertaken pursuant to this Agreement.

7. **Business License.** Contractor shall obtain and/or maintain an appropriate business license from the City of Wilmington Department of Finance.

8. **Taxes.** Contractor shall withhold, if applicable, City of Wilmington wage taxes from the compensation of its officers, agents and employees as required by the City of Wilmington wage tax law.

9. **Findings Confidential.** All of the drawings, plans, designs, reports, analyses, specifications, information, examinations, proposals, illustrations, copies, maps, graphics, slides, and documents prepared, assembled, drafted or generated by Contractor under this Agreement are confidential, and Contractor agrees that such documents shall not be made available to anyone, without the prior written approval of the City.

10. **Ownership of Information.** All of the drawings, plans, designs, reports, analyses, specifications, information, examinations, proposals, brochures, illustrations, copies, maps, graphics, slides, and documents prepared, assembled, drafted, or generated by Contractor in connection with this Agreement shall become the exclusive property of the City for use by the City as the City deems appropriate. Contractor may keep copies of such documents for its records. Any reuse of the documents without the Contractor's written consent shall be at user's risk and responsibility.

11. **Notices.** Any notice which is required or may be given in connection with this Agreement shall be addressed to the parties as follows:

The City:

Yesenia Taveras
Wilmington City Council
800 North French Street, 9th Floor
Wilmington, DE 19801

The Contractor:

Matthew Murphy
Valley Forge Corporate Center
905 Madison Avenue
Norristown, PA 19403

12. **Independent Contractor.** Contractor (and its employees and agents) is an independent contractor and not an employee or agent of the City.

13. **Oral Modifications.** This Agreement may not be changed orally, but only by an agreement in writing and signed by both parties.

14. **Conflict Between Provisions.** To the extent that there is any conflict between these General Terms and Conditions and other portions of the Agreement, the terms set forth in these General Terms and Conditions shall govern.

15. **Successors and Assigns.** This Agreement, and all the terms and provisions hereof, shall be binding upon and shall inure to the benefit of the City and Contractor, and their respective legal representatives, successors, and assigns.

16. **Termination.** The City may terminate this Agreement at its convenience upon two weeks' notice. In the event of termination, the City shall pay to Contractor any fees then due for services performed by Contractor through the effective date of termination, if such services have been performed as specified in the Agreement. Contractor, upon receipt of such payment, shall deliver to City any deliverables, reports, or other documents to the extent then completed.

17. **Severability.** The Agreement is intended to be performed in accordance with and only to the extent permitted by all applicable laws, ordinances, rules and regulations. If any provision of this Agreement or the application thereof to any person or circumstance shall for any reason and to any extent be invalid or unenforceable, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby, but rather shall be enforced to the greatest extent permitted by law.

18. **Payment.** Payment shall be made by the City to the Contractor as provided in this Agreement after the satisfactory completion of the work specified in this Agreement and upon proper, undisputed invoice to the City.

19. **Applicable Law and Dispute Resolution.** The laws of the State of Delaware shall govern this Agreement. All disputes in connection with this Agreement shall be resolved by the courts of New Castle County, Delaware. Contractor agrees to submit exclusively to the jurisdiction and venue of said courts.

20. **Signed Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which, taken together, shall constitute one and the same instrument.

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