

ORIGINAL

SECOND AMENDMENT TO CONTRACT NO. 10073272-16-S, DEPARTMENT OF IT DATA CENTER COLOCATION FACILITY / MASTER SERVICE AGREEMENT (KIO) 2016-10-01 - ZCON-00103387

This Second Amendment to the Contract No. 10073272-16-S, Department of IT Data Center Colocation Facility / Master Service Agreement (KIO) 2016-10-01 - zCon-00103387 (Second Amendment) is made and entered into by and between the City of San Diego (City) and zColo, LLC (zColo) (Contractor), also referred to individually as "Party" and collectively as the "Parties."

RECITALS

1. City issued RFP No. 10073272-16-S, Provide the City of San Diego Department of IT with a Data Center Colocation Facility, and accepted KIO Network's (KIO) proposal, resulting in a contract between the City and KIO (Contract). The Contract is comprised of the RFP and Cover Sheet; Master Service Agreement (KIO) 2016-10-01 - zCon-00103387; the successful proposal; the Notice of Intent to Award; the First Amendment; and the City's General Contract Terms and Provisions.
2. On January 16, 2018, the Contract was assigned from KIO to Zayo Group, LLC (Zayo).
3. The City consented to Zayo's assignment of the Contract to zColo with the assignment effective as of May 1, 2021.
4. The Contract may be amended by written agreement executed by duly authorized representatives of both Parties.
5. The First Amendment to the Contract to increase the not to exceed amount became effective on August 25, 2021.
6. The Parties wish to amend the Contract to increase the not to exceed amount from \$3,100,000 to \$4,000,000.

TERMS

1. Section 3.1, General, of the Master Service Agreement is revised in part to read as follows:
 - 3.1. General. zColo will provide, and Customer will purchase or subscribe to the Services set forth in the SOF, Statement of Work, or engagement letter (herein collectively referred to as a "SOF") in an amount not to exceed a total of Four Million dollars (\$4,000,000).
2. Section 7.1 Payment Terms. of the Master Service Agreement is revised in part to read as follows:

Customer shall pay zColo for performance of all Services rendered in accordance with this Contract in an amount not to exceed \$4,000,000.

3. This Second Amendment will be effective when signed by both parties and approved by the City Attorney in accordance with Charter section 40.

4. All provisions of the Contract not addressed in this Second Amendment remain in full force and effect.

5. This Amendment may be executed in counterparts, which when taken together shall constitute a single signed original as though all Parties had executed the same page.

IN WITNESS WHEREOF, this Second Amendment is executed by City and Contractor acting by and through their authorized officers.

zColo, LLC signed by:
By: Daniel G. Yamagishi
CB611BDDF43D47B...

Name: Daniel G. Yamagishi

Title: General Counsel

Date: September 28, 2023

City of San Diego

By: [Signature]

Name: Claudia Abarca

Title: Director, Purchasing & Contracting

Date: Feb 28, 2024

Approved as to form this 28 day of
February, 2024

MARA W. ELLIOTT, City Attorney

By: [Signature]
Deputy City Attorney

Steven Lastomirsky
Print Name

0- 21753

ORDINANCE NUMBER O- 21753 (NEW SERIES)

DATE OF FINAL PASSAGE JAN 16 2024

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO AUTHORIZING EXECUTION OF THE SECOND AMENDMENT TO THE AGREEMENT BETWEEN THE CITY OF SAN DIEGO AND zCOLO, LLC FOR COLOCATION SERVICES.

WHEREAS, on October 3, 2016, the City of San Diego (City) completed a formal Request for Proposal (RFP) process for data center colocation services and awarded a contract (Agreement) to Castle Access, Inc. (dba KIO Networks); and

WHEREAS, on January 16, 2018, the Agreement was assigned from KIO Networks to Zayo Group, LLC (Zayo) due to the sale of the facility to Zayo; and

WHEREAS, on May 1, 2021, the Agreement was assigned from Zayo to zColo, LLC (zColo) due to a sale of the facility to zColo; and

WHEREAS, the First Amendment to the Agreement was executed August 25, 2021 (as authorized by O-21338); and

WHEREAS, this action requests authorization to execute a Second Amendment (Second Amendment) to increase the total not to exceed amount of the Agreement from \$3,100,000 to \$4,000,000 to continue to provide to the City a comprehensive data center colocation facility, its infrastructure, and associated network services; and

WHEREAS, under Charter section 99, no contract, agreement, or obligation extending for a period of more than five years may be authorized except by Ordinance approved by a two-thirds majority vote of the City Council; and

WHEREAS, the Office of the City Attorney has drafted this ordinance based on the information provided by City staff, with the understanding that this information is complete, true, and accurate; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That the Mayor, or his designee, is authorized to execute the Second Amendment to the Agreement between the City of San Diego and zColo, LLC for providing a comprehensive data center colocation facility and its infrastructure and network services and otherwise modifying the Agreement pursuant to the terms and conditions contained in the Second Amendment to the Agreement on file with the City Clerk as Document No. OO- 21753

Section 2. That the Chief Financial Officer is authorized to expend funds in an amount not to exceed \$4,000,000 over the full term of the Agreement, contingent upon adoption of the annual Appropriation Ordinance for the applicable fiscal year and upon the Chief Financial Officer furnishing one or more certificates certifying that funds necessary for expenditure are, or will be, on deposit with the City Treasurer.

Section 3. That a full reading of this ordinance is dispensed with prior to passage, a written copy having been made available to the Council and the public prior to the day of its passage.

Section 4. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: MARA W. ELLIOTT, City Attorney

By



Steven R. Lastomirsky
Deputy City Attorney

SRL:jvg
November 4, 2023
Or.Dept: Department of Information Technology
Doc. No. 3465860

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of JAN 09 2024.

DIANA J.S. FUENTES
City Clerk

By Connie Patterson
Deputy City Clerk

Approved: 1/12/24
(date)

Todd Gloria
TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

(Note: The date of final passage is January 16, 2024, which represents the day this ordinance was returned to the Office of the City Clerk with the Mayor's signature of approval.)

Passed by the Council of The City of San Diego on JAN 09 2024, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery Steppe	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Kent Lee	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JAN 16 2024.

AUTHENTICATED BY:

(Seal)

TODD GLORIA
Mayor of The City of San Diego, California.

DIANA J.S. FUENTES
City Clerk of The City of San Diego, California.

By Connie Patterson, Deputy

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

DEC 05 2023, and on JAN 16 2024.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

DIANA J.S. FUENTES
City Clerk of The City of San Diego, California.

By Connie Patterson, Deputy

Office of the City Clerk, San Diego, California
Ordinance Number O- 21753

Passed by the Council of The City of San Diego on January 9, 2024, by the following vote:

YEAS: LACAVA, CAMPBELL, WHITBURN, LEE, CAMPILLO, MORENO, & ELO-RIVERA.

NAYS: NONE.

NOT PRESENT: VON WILPERT.

RECUSED: NONE.

VACANT: DISTRICT 4.

AUTHENTICATED BY:

TODD GLORIA

Mayor of The City of San Diego, California

DIANA J.S. FUENTES

City Clerk of The City of San Diego, California

(Seal)

By: Connie Patterson, Deputy

I HEREBY CERTIFY that the above and foregoing is a full, true, and correct copy of ORDINANCE NO. O-21753 (New Series) of The City of San Diego, California.

I FURTHER CERTIFY that said ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on December 05, 2023, and on January 16, 2024.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

DIANA J.S. FUENTES

City Clerk of The City of San Diego, California

(SEAL)

By: Connie Patterson, Deputy