



CITY OF PLANO COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		February 27, 2012		
Department:		Library Administration		
Department Head		Cathy Ziegler		
Agenda Coordinator (include phone #): Jeanne Argomaniz (4327)				
CAPTION				
<p>A Resolution of the City Council of the City of Plano, Texas, authorizing the purchase of downloadable content (ebooks, music, video, and e-audio library materials) with Kindle functionality in the amount not to exceed the sum of One Hundred Fifty Thousand and 00/Dollars (\$150,000) from OverDrive, Inc., the sole source provider of such library materials for the City of Plano - Plano Public Library System; and authorizing its execution by the City Manager or his authorized designee to execute all necessary documents; and providing an effective date.</p>				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input checked="" type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR: 2011-2012	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	1,758,517	0	1,758,517
Encumbered/Expended Amount	0	-700,832	0	-700,832
This Item	0	-150,000	0	-150,000
BALANCE	0	907,685	0	907,685
FUND(S): GENERAL FUND				
<p>COMMENTS: Funds are included in the FY 2011-12 adopted budget to purchase ebooks, music, video, and e-audio library materials for the City of Plano Public Library System.</p> <p>STRATEGIC PLAN GOAL: Providing downloadable contents for the Plano Public Library System relates to the City's Goal of a Financially Strong City with Service Excellence.</p>				
SUMMARY OF ITEM				
<p>Approval of this purchase from OverDrive, Inc. is requested in the amount of \$150,000 for the purchase of downloadable content (ebooks, music, video and e-audio library materials) with Kindle functionality.</p> <p>Overdrive, Inc. is the sole source provider of such downloadable materials. Sole source purchases are exempt from the competitive bid process as provided in V.T.C.A., Local Government Code, Section 252.022 (a) (7).</p>				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	
Memo from Julie Torstad dated 01.26.2012 OverDrive, Inc., Sole Source letter dated 12.14.2011 Affidavit of No Prohibited Interest from OverDrive, Inc., dated 01.12.2012				



City of Plano
Library Technical Services
2501 Coit Road
Plano, TX 75075
Phone: 972.769-4237

Memorandum

Date: January 26, 2012

To: Cathy Ziegler, Director of Libraries

From: Julie Torstad, Library Technical Services Manager

Subject: City Council Approval for OverDrive

Please request City Council approval to spend approximately \$150,000 with OverDrive, Inc, a sole source provider for content (e-books, music, video and e-audio library materials) with Kindle functionality. Funds will be taken from 01-682-6203 (\$60,000) and 01-682-8441 (\$90,000). Some of the funds will be transferred into 01-682-8442.



Valley Tech Center ▪ Suite N ▪ 8555 Sweet Valley Drive ▪ Cleveland, OH 44125 ▪
216.573.6886 ▪ www.overdrive.com

December 14, 2011

Julie Torstad
Plano Public Library System
2501 Coit Road
Plano, TX 75075

RE: OverDrive as a sole source provider

Dear Ms. Torstad:

OverDrive provides a series of services and digital content materials that enable public libraries to lend download popular audiobooks, eBooks, music, download video and other digital content via the library's website.

Uniquely available only from OverDrive as a sole source provider, we offer a system that combines:

- A customized website service for download digital materials integrated with the library's ILS system for real-time patron authentication
- Control for the library to set digital book lending policies and manage access and usage of materials
- Download eBooks capable of operating on portable devices such as iPads, Blackberrys and Smartphones, as well as on all generations of the Amazon Kindle
- OverDrive Media Console for Windows and MACs, a single integrated desktop client software application for use of download audiobooks, music and video
- Download audiobooks and music with accessibility features for the blind and visually impaired
- Download audiobooks and music divided in parts, some with permissions for patrons to burn to standard CD
- OverDrive MP3 Audiobooks compatible with MAC/OS, iPods and other Apple devices
- Digital audio and eBook materials from Brilliance Audio, Hachette, HarperCollins, Weston Woods, Phoenix Audio and other publishers only available from OverDrive
- Download video materials including documentaries, travelogues, feature films and concerts for use with the same integrated desktop client that supports audiobook and music titles

As a result of the combination of the above referenced items as well as OverDrive's patents, copyrights and secret processes, OverDrive is the only vendor to offer these services and materials and we have enjoyed adoption and success as the sole source supplier of the foregoing to many leading public libraries around the world. Please do not hesitate to contact me for further information.

Very truly yours,

Steve Potash, CEO
OverDrive, Inc.
spotash@overdrive.com
(216) 573-6886 ext. 201

Schedule "C"
AFFIDAVIT OF NO PROHIBITED INTEREST

I, the undersigned declare that I am authorized to make this statement on behalf of **OverDrive, Inc.** a Delaware corporation, and I have made a reasonable inquiry and, to the best of my knowledge, no person or officer of **OverDrive, Inc.** is employed by the City of Plano or is an elected or appointed official of the City of Plano within the restrictions of the Plano City Charter.

I am aware that Section 11.02 of the City Charter states:

"No officer or employee of the city shall have a financial interest, direct or indirect, in any contract with the city, nor shall be financially interested, directly or indirectly, in the sale to the city of any land, or rights or interest in any land, materials, supplies or service. The above provision shall not apply where the interest is represented by ownership of stock in a corporation involved, provided such stock ownership amounts to less than one (1) per cent of the corporation stock. Any violation of this section shall constitute malfeasance in office, and any officer or employee of the city found guilty thereof shall thereby forfeit his office or position. Any violation of this section with the knowledge, express or implied, of the persons or corporation contracting with the city shall render the contract voidable by the city manager or the city council."

I further understand and acknowledge that a violation of Section 11.02 of the City Charter at anytime during the term of this contract will render the contract voidable by the City.

OverDrive, Inc.
Company Name

By: 
Signature

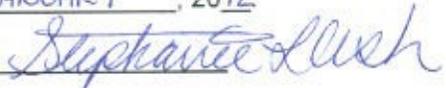
Erica Lazzaro
Print Name

General Counsel
Title

January 10, 2012
Date

STATE OF OHIO §
 §
COUNTY OF CUYAHOGA §

SUBSCRIBED AND SWORN TO before me this 10TH day of JANUARY, 2012

STEPHANIE L. ASH 
Notary Public, State of Ohio



STEPHANIE L. ASH
Attorney At Law
NOTARY PUBLIC
STATE OF OHIO
My Commission Has
No Expiration Date
Section 147.03 O.R.C.

A Resolution of the City Council of the City of Plano, Texas, authorizing the purchase of downloadable content (ebooks, music, video, and e-audio library materials) with Kindle functionality in an amount not to exceed the sum of One Hundred Fifty Thousand and 00/Dollars (\$150,000) from OverDrive, Inc., the sole source provider of such library materials for the City of Plano - Plano Public Library System; and authorizing its execution by the City Manager or his authorized designee to execute all necessary documents; and providing an effective date.

WHEREAS, the City of Plano, Texas desires to purchase from OverDrive, Inc. downloadable content (ebooks, music, video, and e-audio library materials) with Kindle functionality for the City of Plano, Plano Public Library System; and

WHEREAS, OverDrive, Inc. is the sole source provider of downloadable content (ebooks, music, video, and e-audio library materials) with Kindle functionality; and

WHEREAS, the City Council of the City of Plano, Texas, finds that the public's best interest is served by authorizing the purchase of downloadable content, (ebooks, music, video and e-audio library materials) with Kindle functionality not to exceed \$150,000; and

WHEREAS, the City Council is of the opinion that these downloadable content (ebooks, music, video and e-audio library materials) with Kindle functionality are available only from one source, OverDrive, Inc., and therefore the purchase is exempt from competitive bid as provided for in V.T.C.A., Local Government Code, Section 252.022 (a) (7); and

WHEREAS, upon full review and consideration of the proposed purchase and all matters attendant and related thereto, the City Council is of the opinion that the purchase should be approved, and that the City Manager or his authorized designee should be authorized to take such action and execute such documents as necessary to effectuate the purchase.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:

Section I. The City Council hereby finds and determines OverDrive, Inc., is the sole source provider for the downloadable content (ebooks, music, video and e-audio library materials) with Kindle functionality and said purchase is exempt from competitive bid as provided for in V.T.C.A., Local Government Code, Section 252.022 (a) (7).

Section II. The City Manager or his authorized designee is hereby authorized to take such action and execute such documents with OverDrive, Inc., the sole source provider, as necessary to effectuate the purchase of downloadable content (ebooks, music, video and e-audio library materials) with Kindle functionality in the amount of \$150,000.

Section III. This Resolution shall become effective upon its passage.

DULY PASSED AND APPROVED this the 27th day of February, 2012.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY