



AMENDMENT FOUR
TO CONTRACT MA-012-15010841
BETWEEN
OCCR/OC PUBLIC LIBRARIES
AND
OVERDRIVE INC.
FOR E-BOOK/E-AUDIO PURCHASES

This Amendment to Contract MA-012-15010841, herein referred to as “Amendment Four” is made and entered into upon execution of all necessary signatures between the County of Orange, OC Community Resources/OC Public Libraries, a political subdivision of the State of California, with a place of business at 1501 E. St. Andrew Place, Santa Ana, CA 92705-4930, hereinafter referred to as “County” and Overdrive Inc., with a place of business at One OverDrive Way, Cleveland, OH 44125-4210, hereinafter referred to as “Contractor”, with County and Contractor, sometimes individually referred to as “Party” or collectively referred to as “Parties”.

RECITALS

WHEREAS, County and Contractor entered into Contract MA-012-15010841, herein referred to as “Original Contract”, for E-Book/E-Audio Purchases, commencing on December 9, 2014, and expiring on December 8, 2016, in the amount of \$500,000.00 per year; and

WHEREAS, on January 25, 2016, the Parties authorized execution of the First Amendment to the Original Contract to add two services to the Scope of Work, cataloging of titles and adding five (5) overdrive media stations to five (5) library locations with no monetary increase; and

WHEREAS, on October 25, 2016, the Parties authorized execution of the Second Amendment to renew Contract for the third year period effective December 9, 2016, through December 8, 2017, for an annual amount not to exceed \$500,000.00 for a maximum obligation of \$1,500,000.00; and

WHEREAS, on November 2, 2017, the Parties authorized execution of the Third Amendment to renew Contract for the fourth year period effective December 9, 2017, through December 8, 2018, for an annual amount not to exceed \$550,000.00 for a maximum obligation of \$2,050,000.00; and

WHEREAS, the Parties now desire to renew Contract for the fifth year period effective December 9, 2018, through December 8, 2019 and to update Article S of the General Terms and Conditions; and

NOW, THEREFORE, in consideration of the mutual obligations set forth herein, both Parties agree as follows:

1. The term of the Contract shall be renewed for the fifth year commencing on December 9, 2018, through and including December 8, 2019, for an annual amount not to exceed \$550,000.00 for a new maximum obligation of \$2,600,000.00.
2. Article 2 “Term of Contract” of the Contract shall be amended in its entirety to read as follows:
 2. Term of Contract: Initial term of the Contract was effective December 9, 2014, through December 8, 2016. Contract was renewed for the third year period effective December 9, 2016, through December 8, 2017, the fourth year period effective December 9, 2017, through December 8, 2018 and the fifth year period effective December 9, 2018 through December 8, 2019.

3. Article 3 “Renewals” of the Contract shall be amended in its entirety to read as follows:

3. Renewals: This Contract is on its 5th and last year term and is no longer renewable.

4. Article S “Change of Ownership” is replaced by “Change Ownership/Name, Litigation Status, Conflicts with County Interests” and shall be amended in its entirety to read as follows:

Article S - Change of Ownership/Name, Litigation Status, Conflicts with County Interests:

“Contractor agrees that if there is a change or transfer in ownership of Contractor’s business prior to completion of this Contract, and the County agrees to an assignment of the Contract, the new owners shall be required under the terms of sale or other instruments of transfer to assume Contractor’s duties and obligations contained in this Contract and complete them to the satisfaction of the County.

County reserves the right to immediately terminate the Contract in the event the County determines that the assignee is not qualified or is otherwise unacceptable to the County for the provision of services under the Contract.

In addition, Contractor has the duty to notify the County in writing of any change in the Contractor’s status with respect to name changes that do not require an assignment of the Contract. The Contractor is also obligated to notify the County in writing if the Contractor becomes a party to any litigation against the County, or a party to litigation that may reasonably affect the Contractor’s performance under the Contract, as well as any potential conflicts of interest between Contractor and County that may arise prior to or during the period of Contract performance. While Contractor will be required to provide this information without prompting from the County any time there is a change in Contractor’s name, conflict of interest or litigation status, Contractor must also provide an update to the County of its status in these areas whenever requested by the County.

The Contractor shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with County interests. In addition to the Contractor, this obligation shall apply to the Contractor’s employees, agents, and subcontractors associated with the provision of goods and services provided under this Contract. The Contractor’s efforts shall include, but not be limited to establishing rules and procedures preventing its employees, agents, and subcontractors from providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to influence or appear to influence County staff or elected officers in the performance of their duties”.

Except as otherwise expressly set forth herein, all terms and conditions contained in the Original Contract, including any amendments/modifications, are hereby incorporated herein by this reference as if fully set forth herein and shall remain in full force and effect.

**** Signature Page Follows ****

SIGNATURE PAGE

IN WITNESS WHEREOF, the Parties hereto have executed this Fourth Amendment on the dates with their respective signatures:

OVERDRIVE INC.*

Print Name Title

Signature Date

Print Name Title

Signature Date

* If the Contractor is a corporation, signatures of two specific corporate officers are required as further set forth.

The first corporate officer signature must be one of the following: 1) the Chairman of the Board; 2) the President; 3) any Vice President.

The second corporate officer signature must be one of the following: a) Secretary; b) Assistant Secretary; c) Chief Financial Officer; d) Assistant Treasurer.

In the alternative, a single corporate signature is acceptable when accompanied by a corporate resolution demonstrating the legal authority of the signature to bind the company.

County of Orange, a political subdivision of the state of California

Print Name Title

Signature Date

APPROVED AS TO FORM

County Counsel

By: Carolyn S. Frost Deputy Name

Deputy Signature

Date: 09/14/18