



GRANTS NETWORK: RESEARCH CONTRACT EXTENSION

Date 8/20/08
Contract No. 1706

This Agreement is made by and between:

eCivis, Inc., a Delaware corporation ("eCivis")
3452 East Foothill Blvd, Floor 9
Pasadena, CA 91107
Fax: (626) 628-3232
Sales Contact:
Sandy Geniesse

and

County of El Dorado, CA ("Customer")
330 Fair Lane
Placerville, CA 95667
Phone: (530) 621-6565
Principal Contact and Master Access Holder:
Kelly Webb, Principal Administrative Analyst

eCivis, Inc. is pleased to extend your current contract of Grants Network: Research for an additional year. All the terms and conditions stated in the contract between your organization and eCivis, (a copy of which is on file with eCivis, Inc), remain in effect, except for the following modifications: offer is valid for 30-days from start date.

Previous Contract Number: 10808-5

Table with 4 columns: eCivis Services, Description, Level of Access, Rate. Row 1: GN: Research 4.1, Federal, California and Foundation, Unlimited users, \$11,652.00. Total: \$11,652.00

Terms and Payments

The term of this Agreement will conclude 10/31/2009.

Cycle 1: 11/1/2008 through 10/31/2009

If signed contract is:

- Received by 10/2/08
Received by 10/31/08
Received after 10/31/08

The valid price is:

- \$11,652.00, 53% savings
\$12,467.00, 50% savings
\$25,000.00

Payment is due:

- Net 30 days of invoice date
Upon receipt of invoice
Upon receipt of invoice

Renewal Terms - Additional extension of this agreement will occur as follows:

Year-to-Year: This agreement will be eligible for renewal for extended one-year periods through mutually agreed upon purchasing vehicle executed before the expiration of the original term listed above. No guarantees are made as to rate, access, or included services within this agreement. Purchasing vehicles executed after the termination date of this agreement are subject to then-current retail rates for all services provided.

It is agreed by both parties that the terms of the Extension are stated as above and that all other terms and provisions of the Subscription Agreement remain in full force and effect.

Accepted By:

Customer

By: (Authorized Signature)

Name: (type or print)

Title:

Date:

Accepted By:

eCivis, Inc.

By: (Authorized Signature)

Name: Sergio Del Olmo (type or print)

Title: Director of Client Services

Date: 8/20/08

Administrator: The County Officer or employee with responsibility for administering this Agreement is Kelly Webb, Principal Administrative Analyst, Chief Administrative Office, or successor.

Send invoice to (if different than address above):

Address Dept

## Terms & Conditions

### 1) **General.**

- a) "Customer" shall mean the end-user customer organization or entity executing this Agreement.
- b) "Access Holder" shall mean each individual who is an employee of Customer at the time such individual accesses and/or uses Grants Network. If Customer is licensing the Grants Network: Community Based Organization Module (also referred to as the "CBO" Module) pursuant to this Agreement, then "Access Holder" shall also mean each individual who is an employee of an approved non-profit organization pursuant to the CBO Module.
- c) "Grants Network" shall mean the Modules as listed in Exhibit A attached hereto.
- d) "Licensed Modules" shall mean the Modules that are licensed by Customer herein pursuant to the Fee Schedule set forth on the cover page attached hereto. Customer acknowledges and agrees that eCivis is not obligated, but reserves the right, to make daily, weekly, monthly, or yearly updates to the Modules.
- e) "Stated Version" shall mean the version of a Module notated herein by the first number after the Module name (e.g., "Grants Network: Research 4.1", "GN: Tracking & Reporting 1.2", etc.).
- f) "Version Release" shall mean the most current software available within a given Stated Version of a Module, notated herein by the number that follows the Stated Version number and decimal point (e.g., "Grants Network: Research 4.1", "GN: Tracking & Reporting 1..2", etc.).

### 2) **Grant of License.**

- a) In consideration of Customer's agreement to abide by the terms and conditions of this Agreement, eCivis hereby grants Customer a nonexclusive, nontransferable, right and license to:
  - i) permit each Access Holder to access and use the Licensed Modules; and
  - ii) reproduce, display, distribute, printout, and store information retrieved from the Licensed Modules, whether in electronic or written form, only for internal use within the Customer organization or entity in connection with Customer's normal business activities.
- b) Provided, however, that except as specifically provided in Section 2(a) or elsewhere in this Agreement, neither Customer nor any Access Holder shall use, reproduce, distribute, store, modify, reuse, rent, sell, lease, sublicense, transfer, or broadcast, in any form, information from Grants Network (each an "Unauthorized Use"). Customer agrees to take all reasonable steps to protect the information in Grants Network from any such Unauthorized Use. eCivis reserves all rights not expressly granted to Customer.
- c) If Customer participates in any Unauthorized Use of the information from Grants Network or allows access to or use of Grants Network by individuals who are not Access Holders as defined in Section 1(b) above, eCivis may immediately terminate this Agreement without refunding Customer any fees and without releasing Customer from any obligations to pay fees pursuant to this Agreement and/or any other agreement with eCivis, in addition to other remedies eCivis may obtain.
- d) Customer also acknowledges and agrees that immediate and irreparable damage will result to eCivis if Customer fails or refuses to comply with this Section 2 and, notwithstanding any election by eCivis to claim damages from Customer as a result of such failure or refusal, eCivis may, in addition to any other remedies and damages available, seek an injunction in a court of competent jurisdiction to restrain any such failure or refusal by Customer to perform or comply with its obligations hereunder.

### 3) **Passwords.** Customer agrees to assume sole responsibility for the security of any password(s) issued to each Access Holder. If Customer believes that someone other than an authorized Access Holder is using any password, Customer must immediately notify eCivis in writing.

### 4) **Fees.**

- a) eCivis will charge, and you agree to pay, the Fees. Full payment shall be made to eCivis as specified in page 1, section "Terms and Payments", of this agreement. eCivis will charge you interest at the rate of 1.5 % per month if payment is not received within these specified terms. Cancellation of any subscription will not result in any refund or credit of fees already paid and any additional payments remain due according to pre-determined terms. Subscription fees are charged up-front and no refunds or credits will be given upon cancellation. Additional fees may apply if you decide to re-subscribe at a later date.
- b) In consideration of training services and any other services provided at Client location or locations other than eCivis offices, the following requirements shall apply:
  - i) Customer will reimburse eCivis at cost for fees for travel and associated expenses for services provided at Customer location or locations other than eCivis offices.
  - ii) Customer and eCivis shall schedule on-site provision of services at least twenty-one (21) days in advance, for any cancellation, re-scheduling, and/or changes made by Customer within twenty-one (21) days of scheduled service delivery, Customer will be responsible for 75% cancellation/change fee and 100% of all previously scheduled and unchangeable travel and materials expenses, billed at cost.
- c) For Customers licensing module(s) including Grants Network: Tracking & Reporting:
  - i) The Peak Grants Level is determined by Customer and eCivis upon inception of the license. The Peak Grants Level is the maximum number of awarded grant instances within all of Customer's projects ("Grants") with a status other than "closed". For example, "Peak Grants Level 50" will include up to 50 simultaneous awarded grant instances throughout Customer's active projects.
  - ii) Should the client exceed the Peak Grants Level during the term, overage fees will be calculated as the Per Grant Overage Fee (\$1200/year) multiplied by the number of grants over and above the licensed Peak Grants Level. Fees will be pro-rated through the end of the then-current term. Customer shall pay to eCivis within thirty (30) days notice the lesser of:
    - (a) the overage fees as calculated above; or
    - (b) the pro-rated fee for the Peak Grants Level including enough grants to cover Customer's usage according to eCivis' then current published fees, in which case Customer shall be deemed to have licensed such higher Peak Grants Level for the rest of the then-current term.
- d) eCivis will charge Customer a \$200 fee if a scheduled training session is changed within 14 days of mutually agreed upon start date.

5) **Updates.**

- a) Customer acknowledges and agrees that eCivis is not obligated to, but reserves the right to, provide Customer with any Version Releases for the Licensed Modules. Any Version Releases furnished to Customer shall be considered part of the Licensed Modules and shall be licensed to Customer subject to the terms and conditions of this Agreement.
- b) Additionally, Customer acknowledges and agrees that only the Stated Versions of the respective Licensed Modules, as recited on the cover page attached hereto are licensed herein. eCivis is not obligated, but reserves the right, to create new modules, additional releases, or new services (collectively "New Modules") not specifically outlined herein. Customer has not licensed any such New Modules, however, Customer may license such New Modules pursuant to a written agreement executed by the parties.

6) **Grants Network Access.**

- a) eCivis shall use commercially reasonable efforts to provide Grants Network with an available up time of 99.0% or greater, twenty-four (24) hours a day, seven (7) days a week (excepting reasonable and limited downtime due to routine maintenance). In the event that Grants Network is disabled for any reason for longer than sixty (60) minutes during normal business hours (5 a.m. to 7 p.m. PST), eCivis shall notify Customer of the existence of such problem and use all commercially reasonable efforts to restore Grants Network as soon as reasonably practicable.
- b) eCivis shall use commercially reasonable efforts to schedule downtimes for system maintenance during non-business hours (after 7 p.m. and before 5 a.m. PST) and notify Customer at least twenty-four (24) hours in advance of such scheduled downtimes. Customer, however, shall be responsible for preparing for scheduled downtimes by retrieving any necessary data, including without limitation Customer Data (as defined in Section 7 below), which may not be available during the downtime.

7) **Proprietary Protection.**

- a) As between Customer and eCivis, eCivis (or eCivis' third-party supplier if applicable) shall be the sole owner(s) of all right, title, and interest in and to any and all information in Grants Network that is provided to or accessed by Customer pursuant to this Agreement, including but not limited to any adaptations or copies thereof and any intellectual property rights embodied therein. The information in Grants Network is subject to protection under U.S. and foreign copyright and patent laws. Except as expressly provided for in this Agreement, nothing herein shall be construed as conferring any license or other rights, by implication, estoppel, or otherwise, under any copyrights, patents, or proprietary information of eCivis.
- b) It is eCivis' practice to place copyright notices and/or other proprietary legends in report forms and data provided to Customers. Customer, including each Access Holder of Customer, shall provide for the reproduction of such notices and legends in the form and manner in which they appear.

8) **Customer Data.**

- a) As between Customer and eCivis, Customer shall be the sole owner of all right, title, and interest in and to any and all information input by Customer into Grants Network ("Customer Data"), including but not limited to any adaptations or copies thereof and any intellectual property rights embodied therein. Except as expressly granted in this Agreement, nothing herein grants or shall be construed as conferring any license or other rights, by implication, estoppel, or otherwise, under any copyrights or proprietary information of Customer.
- b) Customer shall be responsible for ensuring that the Customer Data is uncorrupted. eCivis shall not be responsible for Customer Data that was corrupted upon input into Grants Network.
- c) Customer shall be responsible for determining whether Grants Network produces the desired results. Customer is responsible for adopting reasonable measures to limit its exposure with respect to potential losses and damages arising from use, nonuse, interruption, delay, errors, or omissions of or in Grants Network, or the results thereof, including without limitation examination and confirmation of data prior to use thereof, and identification and correction of errors and omissions.
- d) eCivis shall use commercially reasonable efforts to back-up and store Customer Data, however, Customer shall be responsible for maintaining its own locally accessible versions of Customer Data.
- e) eCivis shall use commercially reasonable efforts to protect the security and privacy of Customer Data. eCivis shall have access to data, user settings, information, and metadata within Customer Data for the purposes of providing support, research, customer assistance, development, or other purposes as determined by eCivis.

9) **Access to Customer Data.**

- a) During the term of this Agreement, Customer may request in writing copies of Customer Data from eCivis. eCivis shall provide Customer with such Customer Data in a format determined by eCivis and upon payment of a fee as determined by eCivis from time to time.
- b) eCivis shall not have any obligation to maintain or provide access to Customer Data after termination of this Agreement.

10) **Help Desk.** eCivis shall maintain a help desk to provide technical assistance regarding access to and use of Grants Network. Such telephone assistance shall be available Monday through Friday from 9 a.m. to 5 p.m. PST, subject to planned or uncontrolled interruptions, and excluding eCivis holidays. The help desk may also receive reports of technical difficulties associated with the eCivis Internet site. Such assistance and any training provided by eCivis are intended to relate to technical aspects of use of the eCivis Internet site and Grants Network. eCivis does not hold itself out as providing expert computer advice and does not give personalized grant advice.

11) **Customer's Duty to Indemnify.** Customer agrees to indemnify and hold eCivis, its managers, members, officers, employees, harmless from and against any loss, claim, demand, cause of action, judgment, proceeding, debt liability, damage, cost, or expense (including court costs and attorney fees) incurred as a result of Customer's use or nonuse of Grants Network.

12) **eCivis Duty to Indemnify.** If a third party claims that any use of Grants Network or the information provided therein (other than Customer Data) infringes any U.S. patent, copyright, or trade secret, eCivis will defend and hold harmless Customer and Customer's Access Holders against such claim at eCivis' expense, provided that Customer: (a) notifies eCivis in writing within fifteen (15) business days of being advised of the claim; and (b) allows eCivis to control, and cooperates with eCivis in, the defense of such claim and any related settlement negotiations. If such a claim is made or appears possible, eCivis may, in its sole discretion: (a) secure for Customer the right to continue to use Grants Network; (b) modify or replace the information in Grants Network with equivalent, non-infringing information; or (c) terminate this Agreement. THIS PARAGRAPH STATES eCIVIS' ENTIRE OBLIGATION WITH RESPECT TO ANY CLAIM OF INFRINGEMENT.

13) **Limitations.** eCivis shall employ due care and attention in obtaining and maintaining the information in Grants Network. Customer acknowledges, however, that any collection and compilation of data entails the potential for human and machine errors, omissions, delays, interruptions, and losses, including inadvertent loss of data or damage to media, which may give rise to loss or damage. Accordingly, Customer

acknowledges and agrees that THE INFORMATION FROM OR THROUGH GRANTS NETWORK IS PROVIDED "AS-IS," "AS AVAILABLE," AND ALL WARRANTIES, EXPRESS OR IMPLIED, ARE DISCLAIMED (INCLUDING BUT NOT LIMITED TO THE DISCLAIMER OF ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT). eCIVIS' SOLE AND ENTIRE LIABILITY FOR ANY INACCURATE INFORMATION, FOR ANY REASON, AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDY FOR ANY CAUSE WHATSOEVER, OTHER THAN STATED IN SECTION 11 HEREOF, SHALL BE LIMITED TO THE AMOUNT PAID BY THE CUSTOMER FOR THE INFORMATION RECEIVED (IF ANY). IN NO EVENT SHALL eCIVIS BE LIABLE FOR ANY DIRECT, INDIRECT, PUNITIVE, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OR ANY DAMAGES WHATSOEVER INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF BUSINESS, LOSS OF PROFITS, LOSS OF DATA, LITIGATION, OR THE LIKE, ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE USE OR PERFORMANCE OF THE GRANTS NETWORK PROGRAM, THE DELAY OR INABILITY TO USE THIS eCIVIS SITE, OR ANY INFORMATION, SOFTWARE, PRODUCTS, OR SERVICES THAT ARE OBTAINED OR ACCESSED FROM GRANTS NETWORK, WHETHER BASED ON BREACH OF CONTRACT, BREACH OF WARRANTY, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY, STRICT LIABILITY OR OTHERWISE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE LIMITATIONS OF DAMAGES SET FORTH ABOVE ARE FUNDAMENTAL ELEMENTS OF THE BASIS OF THE BARGAIN BETWEEN eCIVIS AND CUSTOMER. eCIVIS WOULD NOT PROVIDE GRANTS NETWORK WITHOUT SUCH LIMITATIONS. SOME OF THE INFORMATION IN GRANTS NETWORK IS PROVIDED BY THIRD PARTIES. THEREFORE, eCIVIS DOES NOT REPRESENT OR WARRANT THAT THE INFORMATION IS ERROR-FREE, PROBLEM-FREE, OR WITHOUT OTHER LIMITATIONS. NO REPRESENTATIONS, WARRANTIES OR GUARANTEES WHATSOEVER ARE MADE AS TO THE ACCURACY, ADEQUACY, AVAILABILITY, RELIABILITY, TIMELINESS, COMPLETENESS, SUITABILITY OR APPLICABILITY OF ANY OF THE INFORMATION PROVIDED IN GRANTS NETWORK.

Customer further acknowledges and agrees that: (a) eCivis is not a grant-writing firm; (b) eCivis does not warrant or represent that use of Grants Network will result in any grant acquisition; and (c) Grants Network may not include all available federal and state grants or all potential data on the grants provided. Customer agrees to always read the full original grant notice provided.

14) **Default.** If Customer breaches or defaults with respect to any terms or provision of this Agreement or any other agreement with eCivis, and fails to cure the same within fifteen (15) after written notice thereof, eCivis may, in its sole discretion, terminate this Agreement. eCivis reserves the right, with or without notice, to suspend access to and/or use of Grants Network in the event of any Unauthorized Use, or any Customer delinquency, breach, or default under this Agreement, and delete all Customer Data, personal information and settings associated with an Access Holder during such suspension, in which case such Customer Data, personal information and settings will be unrecoverable.

15) **Force Majeure.** eCivis shall not be liable or be deemed to be in default for any delay or failure in performance or interruption resulting directly or indirectly from any cause or circumstance beyond the reasonable control of eCivis, including, but not limited to, equipment or telecommunications failure, labor dispute, accident, flood, other natural disaster, embargo, war, terrorism, order or interference by civil or military authorities, whether legal or defacto, or failure of any third party to perform any agreement with eCivis that adversely affects eCivis' ability to perform its obligations hereunder.

16) **Assignment.** This Agreement shall bind and inure to the benefit of eCivis and Customer, and their permitted successors and assigns. eCivis shall have the right to assign or otherwise transfer its rights or obligations under this Agreement whether by contract or operation of law without Customer's consent. Customer shall not have the right to assign, by contract, operation of law or otherwise, this Agreement or any of the rights, interests, or obligations hereunder without the prior written consent of eCivis. A successor in interest by merger, operation of law or purchase of the assets or entire business of Customer or otherwise shall not acquire all or any portion of Customer's interests hereunder without the prior written consent of eCivis.

17) **Entire Agreement; Amendment.** This Agreement constitutes the entire and exclusive agreement between eCivis and Customer with respect to the subject matter hereof and supersedes and cancels all previous agreements and understandings, whether in oral or in writing, with respect to such subject matter, and may not be amended, altered, or modified except by a written agreement executed by duly authorized representatives of the parties hereto.

18) **Waiver.** The failure of either eCivis or Customer at any time or times to require performance of any provision hereof shall in no manner affect the right of such party at a later time to enforce the same. No waiver by any party hereto of any condition, or the breach of any provision, term, covenant, representation, or warranty contained in this Agreement, whether by conduct or otherwise, in any one or more instances, shall be deemed to be or construed as a further or continuing waiver of any such condition or of the breach of any other provision, term, representation, or warranty of this Agreement.

19) **Governing Law.** This Agreement shall be governed by and interpreted under the laws of the state of California, without reference to conflict of laws principles. Except as provided in Section 2(d) of this Agreement, each party hereto consents to the exclusive jurisdiction of either the Superior Court of Los Angeles County, California, or the United States District Court for the Central District of California for purposes of any action brought under or as the result of a breach of this Agreement, and each party waives any objection thereto. The parties hereto each further consent and agree that the venue of any action under or as a result of a breach of this Agreement shall be proper in either of the above-named courts and they each waive any objection thereto.

20) **Independent Status of Parties.** Nothing in this Agreement may be construed to constitute either party hereto as agent for, or partner of, the other party hereto. Neither party hereto has the right to bind the other party hereto, transact any business in the name or on behalf of the other party in any manner or form, or to make any promise or representation on behalf of the other party hereto.

21) **Severability.** In the event that any provision of this Agreement is, becomes, or is declared by a court of competent jurisdiction to be illegal, unenforceable, or void, this Agreement shall continue in full force and effect without such provision; provided, however, the parties shall negotiate in good faith to replace any ineffective, unenforceable or illegal provision with an effective replacement as soon as practical, such that the economic effect of this Agreement, as between eCivis and Customer, remains the same or as nearly the same as possible.

**[Signatures provided on cover page of this Agreement]**

## EXHIBIT A

### eCivis Grants Network Modules & Services

#### **eCivis™ Grants Network: Research 4.x**

*(License includes all releases in the 4.x version (e.g. 4.1, 4.2, 4.3, etc.))*

- Search for grants within eCivis' proprietary database.
- Identify and save grants of interest.
- Save search criteria for recurring use.
- Receive email notifications regarding new or updated grants matching desired criteria.
- Access to grant news content.

#### **eCivis™ Grants Network: Community Based Organization (CBO)**

*(GN: Research 4.x or later required for use of this module)*

- Customer can offer access to non-profit entities and community-based organizations that are based in and serve Customer's jurisdiction (access cannot be extended to any for-profit entities).
- Additional Reports for Customer on CBOs usage.

#### **eCivis™ Grants Network: KnowledgeBase 1.x**

- Publications – 2 to 3-page subject briefs on best practices surrounding grant skills and organizational development. These target various roles in the grants process and levels of experience. Includes collections on common but critical grant-related topics, from Administrative Policy Manuals to Writing Grant Applications to Single Audit Preparation and others.
- Automated Courses – Easy to follow and available on-demand from any computer.
- Glossary – Hundreds of grant-related terms, common jargon, acronyms, and more.
- Project Trends – These profiles of typical projects and our recommendations on associated funding opportunities.

#### **eCivis™ Grants Network: Tracking & Reporting 1.x**

*[License includes all releases in the 1.x version (e.g. 1.1, 1.2, 1.3, etc.)]*

*(GN: Research 4.x required for use of this module)*

- Share/route grants with others.
- Create projects.
- Create and Search Organization grants.
- Associate grants with projects.
- Stakeholder creation and assignment to specific projects.
- Project and grant milestone tracking.
- Single document upload capabilities with appropriate grant milestones.
- Email notifications regarding project / grant milestones.
- Email notifications regarding pending due dates.
- Research activity reporting.
- Project activity reporting.
- Grant funding reporting.
- Detailed transaction history.

#### **eCivis™ Grants Network Implementation**

*(Initial service in order to facilitate effective Grants Network usage)*

- Organization Configuration.
- Data Collection.
- Administrative Policy Consultation.
- Historic grants data input and configuration.
- Initial Software Training.

#### **eCivis™ Additional Services**

- Professional Development Training.
- Additional Software Training.
- Best Practice Assistance.