

GIS PLANNING LICENSE AGREEMENT (HOSTED SOFTWARE) – TERM SHEET

PARTIES	
GIS CLIENT	GIS Planning Inc. with its main place of business as One Hallidie Plaza, Suite 760, San Francisco, CA 94102 City of San Luis AZ with its main place of business as 1090 East Union Street, PO Box 1170, San Luis AZ 85349
SERVICE	
Service	ZoomProspector Enterprise License with Google Maps
Service Elements	Sites and Buildings Database Thematic Maps RFI Manager Demographic Mapping and Reports to 60 miles Business Data Demographic Data Marketing and Implementation Plan Intelligence Components
CLIENT SITE DETAILS	
Geographic Scope	The geographic scope of the Software will cover the geographic boundaries of the City of San Luis.
FEES	
Initial Fees	\$8,100, invoiced as follows: 50% on the Agreement Date. 50% thirty days after the Agreement Date.
Renewal Fees	\$8,100 for years 2 & 3, invoiced on each anniversary of the Agreement Date. Unless client negotiates another 3 year term, annual investment will revert to \$9,000 per year as of the 4 th year anniversary
OTHER	
Agreement Date	The date that this Agreement has been signed by both parties.
Initial Term	One year from the Agreement Date.
Target Go-Live Date	60 days after the Agreement Date.
Relationship Managers	GIS: Jeff Suneson, Director of Client Service, 916-833-8894, jsuneson@gisplanning.com Client: Jenny Torres, Community Development Director, 928-341-8584, jtorres@cityofsanluis.org
SPECIAL CONDITIONS (if applicable)	
In the case of conflict or ambiguity between any provision contained in the Term Sheet and any provision contained in the Terms and Conditions attached, the provisions in this Term Sheet will take precedence. Client acknowledges that it has read and agrees to be bound by this Agreement (which includes this Term Sheet and the attached Terms and Conditions). The parties agree that the Agreement will become legally binding when signed on behalf of both parties.	
Signed by: GIS Planning Name: Pablo Monzon Position: Managing Director Date:	Signed by: City of San Luis Arizona Name: Position: Date:

TERMS AND CONDITIONS

1 DEFINITIONS

1.1 These Terms and Conditions together with the Term Sheet form a legally binding agreement between the parties (the "Agreement"). In this Agreement, words and phrases have the meaning given to them in the Term Sheet and this Clause 1:

"Administration Interface" means the interface provided for the Client to manage the Client Site.

"Administrator Login" means any Login giving the user administration-level privileges to the Client Site.

"Client Site" means a web-based application providing the functionality set out in the Documentation, including such Client Site as updated by GIS from time to time in accordance with this Agreement.

"Custom Domain" means any domain used for the Client Site other than the Principal Domain.

"Documentation" means the documentation for the Client Site as made available by GIS to the Client.

"Fees" means the fees payable by Client to GIS, including the Initial Fees and Renewal Fees.

"Go-Live Date" has the meaning given to it in clause 3.4.

"Hosting Services" means the hosting, maintenance and making available of the Client Site (including the Administration Interface) by GIS.

"Integration Services" means the installation and integration services provided by GIS to prepare the Client Site.

"IPRs" means patents, utility models, rights to inventions, copyright and related rights, trademarks and service marks, trade names and domain names, rights in get-up, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to preserve the confidentiality of information (including know-how and trade secrets) and any other intellectual property rights, including all applications for (and rights to apply for and be granted), renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist, now or in the future, in any part of the world.

"Login" means the unique access credentials (user name and password or as otherwise specified by GIS from time to time) for each User.

"Marks" means all trademarks, service marks, trade names, logos and other branding (whether registered or not) of GIS or its licensors.

"Principal Domain" means the principal domain (being a subdomain of the zoomprospector.com domain) at which GIS hosts the Client Site.

"Renewal Term" has the meaning given to it in clause 12.1.

"Services" means all services provided by GIS under this Agreement, including the Integration Services and the Hosting Services.

"Software" means GIS's proprietary software which forms the basis for the Client Site.

"Third Party Data" means data sourced by GIS from a third party and incorporated into or made available through the Client Site.

"User" means each user with a Login for the Client Site.

1.2 The headings in this Agreement do not affect its interpretation. Unless the context otherwise requires words importing the singular will include the plural and vice versa; the words "include" and "including" will be construed as without limitation; and any reference to any legislative provision will be deemed to include any subsequent re-enactment or a mending provision. This Agreement negates and takes precedence over any Client terms and conditions.

2 SERVICE DELIVERY

Subject to Client's compliance with the terms of this Agreement including but not limited to clause 5.4, GIS will:

- (a) with effect from the Agreement Date, provide the Integration Services; and
- (b) with effect from the Go-Live Date, provide the Hosting Services,

in each case subject to and in accordance with the terms of this Agreement.

3 INTEGRATION SERVICES

3.1 GIS will carry out the Integration Services to prepare the Client Site for launch.

3.2 Once the Client Site is ready for the Client's review, GIS will notify the Client, giving instructions on how the Client Site can be accessed for approval by the Client.

3.3 The Client will not unreasonably withhold or delay approval of the Client Site. If the Client reasonably considers that the Client Site fails to meet the requirements of this Agreement then the Client will notify GIS, giving full details, and the Client and GIS will cooperate in good faith to resolve the issues raised by the Client.

3.4 Once the Client has approved the Client Site, the Client will specify when it wishes the Client Site to become publicly available, to be not less than seven days after the Client's approval (or such shorter period as GIS may agree). The date when the Client Site becomes publicly available is the **"Go-Live Date"**.

3.5 The Client acknowledges that any Target Go-Live Date set out in the Term Sheet is an estimate. GIS will use reasonable endeavors to ensure that the Go-Live Date is no later than the Target Go-Live Date, but the Client acknowledges that this is dependent upon the Client meeting its own obligations under this Agreement and may be affected by factors beyond GIS's control. GIS is under no obligation to make the Client Site publicly available until it has received payment in full of the Initial Fees.

4 HOSTING SERVICES

4.1 With effect from the Go-Live Date, GIS will make the Client Site publicly available at the Principal Domain.

4.2 GIS will use commercially reasonable efforts to make the Client Site available and online for at least 99% of each calendar month. Client agrees and understands that the following will not be taken into account when measuring GIS's performance against that target: (a) routine scheduled maintenance by GIS or its internet provider or hosting facility; (b) loss of connectivity by Client to the Client Site due to reasons which are beyond GIS's control, such as problems with Client's own network and/or computers or with any internet infrastructure.

4.3 Where Client and GIS agree to use of a Custom Domain then the Custom Domain will map to the Principal Domain, so that end users of the Client Site access the Client Site at the Custom Domain and the Principal Domain redirects to the Custom Domain.

4.4 Any Custom Domain is subject to GIS's approval (not to be unreasonably withheld) and must not (a) be misleading; (b) infringe the IPRs of any third party; or (c) incorporate any of the Marks. Except as agreed in writing by GIS, any Custom Domain will be registered in the name of GIS and belong to GIS. Any change to the Custom Domain after the Go-Live Date may be subject to additional charges at GIS's standard rates.

5 PROVISION OF THE SERVICES

5.1 GIS will retain the sole and exclusive right to control and direct the manner or means by which the Services are performed, and may employ or subcontract others with respect to such services.

5.2 Nothing in this Agreement entitles Client to actual possession of the Software or of the Client Site; use of the Software and the Client Site is provided on an application services basis only.

5.3 Any changes or additions to the Services required by Client must be agreed upon in writing by the parties and subject to payment of any agreed additional fees and expenses.

5.4 Client will cooperate with GIS and provide such assistance as GIS may reasonably request in relation to the services to be provided to Client under this Agreement, including but not limited to efforts to obtain all necessary third party consents and approvals.

6 USERS

6.1 GIS will issue one (1) Administrator Login to the Client (or as otherwise agreed by GIS).

6.2 Client acknowledges that any Administrator Login gives the user full access to the Client Site and the Administration Interface, including the ability to add or delete Client Content without restriction and to add or delete Users or Logins.

6.3 The Administration Interface gives the Client the ability to create further Logins for the Users. Each Login will have varying privileges and access rights as specified in the Documentation. Client is responsible for all activity that takes place under each Login, and it is Client's responsibility to ensure that each Login is kept secure and not shared by more than one individual.

6.4 Each User may be required to agree to GIS's individual user terms and privacy policy in order to access the Client Site using their Login.

7 CLIENT CONTENT

7.1 Client is solely responsible for any Client Content uploaded to or otherwise made available through the Client Site. Client must ensure that all Users are made aware of the terms on which Client Content is uploaded and used, including the licenses granted to GIS under this clause 7.

7.2 Client (or the User uploading the Client Content, as applicable) retains ownership of and responsibility for all Client Content.

7.3 Client grants (and will ensure that all Users who upload Client Content grant) to GIS a worldwide, perpetual, irrevocable, royalty-free license to copy, distribute, make available, modify, perform and otherwise use Client Content for the purposes of:

(a) providing the Services; and

(b) making Client Content available through other ZoomProspector sites managed or provided by GIS.

7.4 The Client must (and must ensure that all Users) only submit Client Content which they have the right to upload and make available through the Client Site.

7.5 GIS has no obligation to monitor or moderate Client Content, but GIS has the right to remove any Client Content that GIS considers (in its sole discretion) to violate the terms of this Agreement or to expose GIS or its other clients or users to any legal liability or unacceptable commercial or reputational risk.

8 GIS INTELLECTUAL PROPERTY

8.1 Client acknowledges that all IPRs in the Services and the Software belong and will belong to GIS or the relevant third-party owners (as the case may be), and Client has no rights in or to the Software other than the right to make use of the Client Site as hosted by GIS under this Agreement.

8.2 Client will not (and will not permit any third party to):

(a) copy, adapt, reverse engineer, decompile, disassemble, modify, adapt or make error corrections to the Software in whole or in part; or

(b) make any use of the Services or access the Client Site for the purpose of creating a competing service or any site, service or application that fulfils a similar purpose to any of the Services or the Software.

8.3 Client acknowledges and agrees that: (a) all use of GIS's Marks under this Agreement inures to the benefit of GIS; (b) GIS's Marks will remain the exclusive property of GIS; (c) nothing in this Agreement will confer upon Client any right of ownership in GIS's Marks; and (d) Client will not now or in the future contest the validity of GIS's Marks or take any action impairing the rights of GIS in its Marks.

9 WARRANTIES

9.1 Each party warrants and represents to the other that it has the full power and authority to enter into this Agreement.

9.2 GIS will use reasonable commercial endeavors to provide the Services in a professional and workmanlike manner.

9.3 GIS undertakes at its own expense to defend Client or, at its option, settle any claim or action brought against Client alleging that the Client's receipt or use of the Services in accordance with the terms of this license infringes the US or UK Intellectual Property Rights of a third party ("Claim") and will be responsible for any reasonable losses, damages, costs (including legal fees) and expenses incurred by or awarded against Client as a result of or in connection with any such Claim. For the avoidance of doubt, this clause will not apply where the Claim in question is attributable to (a) Client Content, or (b) use of the Services other than in accordance with the terms of this Agreement. This will be Client's exclusive remedy and GIS's only liability in respect of Claims and for the avoidance of doubt is subject to clause 10.6.

9.4 If any third party makes a Claim, or notifies an intention to make a Claim against Client, GIS's obligations under clause 5.2 are conditional on Client: (a) as soon as reasonably practicable, giving written notice of the Claim to GIS, specifying the nature of the Claim in reasonable detail; (b) not making any admission of liability, agreement or compromise in relation to the Claim without the prior written consent of GIS (such consent not to be unreasonably conditioned, withheld or delayed); (c) giving GIS and its professional advisers access at reasonable times (on

reasonable prior notice) to its premises and its officers, directors, employees, agents, representatives or advisers, and to any relevant assets, accounts, documents and records within the power or control of Client, so as to enable GIS and its professional advisers to examine them and to take copies (at GIS's expense) for the purpose of assessing the Claim; and (d) subject to GIS providing security to Client to Client's reasonable satisfaction against any claim, liability, costs, expenses, damages or losses which may be incurred, taking such action as GIS may reasonably request to avoid, dispute, compromise or defend the Claim.

- 9.5 If any Claim is made, or in GIS's reasonable opinion is likely to be made, against Client, GIS may at its sole option and expense: (a) procure for Client the right to continue to use the Services (or any part of them) in accordance with the terms of this License; (b) modify the Services so that they cease to be infringing; or (c) terminate this Agreement immediately by notice in writing to Client and refund a pro rata proportion of the Fees paid by Client in respect of Services not yet provided as at the date of termination.

10 LIABILITY

- 10.1 It is hereby agreed that except as expressly set out in this Agreement and to the extent permissible by law, all warranties, conditions, representations, terms or undertakings, express or implied, statutory or otherwise are hereby excluded.
- 10.2 Without limitation to clause 10.1, Client acknowledges and agrees that Third Party Data comes from a variety of sources and is provided on an "as is" basis. GIS makes no representation or warranty concerning the accuracy or completeness of any Third Party Data, or of the suitability of that Third Party Data for the needs of the Client or any end-users. Any projections, opinions, assumptions or estimates used are for example only and do not represent the current or future performance of any business.
- 10.3 Client acknowledges and agrees that neither GIS nor its partners who have been involved in the creation, production or delivery of the Client Site will be liable for: (a) any indirect, consequential, incidental or special loss or damages whatsoever or (b) for any loss of profits, revenues, income or goodwill or loss of data or anticipated savings arising from this Agreement, in each case whether reasonably foreseeable or actually foreseen and regardless of the cause of action.
- 10.4 GIS will not have any liability to Client to the extent such liability arises as a result of a breach of this Agreement by Client.
- 10.5 GIS does not exclude or limit its liability for death or personal injury caused by its negligence, for fraud or for fraudulent misrepresentation or for any liability which cannot be excluded or limited by law.
- 10.6 Without prejudice to GIS's right to payment of Fees owing and subject to clause 10.5, the aggregate liability of GIS for any breach of this Agreement or any representation, statement, negligent act or omission arising under or in connection with this Agreement will be limited to direct damages which in no event will exceed 150% the aggregate amount of the Fees paid or (if greater) payable by Client to GIS under this Agreement.

11 PAYMENT

- 11.1 Client will pay the Fees as set out in the Term Sheet. If no payment term is specified on the invoice, Client will pay the Fees within 30 days of the date of the GIS invoice. Failure to pay undisputed Fees on time will constitute a material breach of this

Agreement. Client will bear any additional costs arising from Client's failure to comply with its obligations under this Agreement. Any additional Services provided by GIS that are not set out in the Term Sheet will be subject to additional Fees, to be agreed between GIS and Client.

- 11.2 The Fees and all other charges are exclusive of value added tax (VAT) or any other sales or similar taxes which are or may be applicable. The Fee will be paid to GIS in full without deduction of any taxes, withholding taxes, charges and other applicable duties which may be imposed. If Client is required by law to make a set-off, deduction or withholding then it will pay such additional amount to ensure that the net amount received by GIS is equal to the amount GIS would have been entitled to receive under this Agreement in the absence of any requirement to make such set-off, deduction or withholding. Client will provide GIS with a valid tax certificate evidencing such amount withheld within 30 days of such set-off, deduction or withholding.
- 11.3 If any sum payable under this Agreement is not paid within 7 days of the due date then (without prejudice to GIS's other rights and remedies) GIS reserves the right to: a) charge interest on such sum on a day-to-day basis from the due date to the date of payment (both dates inclusive) at the rate of 4 per cent above the base rate of Barclays Bank Plc from time to time in force; and b) suspend the provision of the Services.

12 TERM AND TERMINATION

- 12.1 This Agreement will commence on the Agreement Date and will continue in force for the Initial Term. It will then renew automatically for further periods of one year (each a "Renewal Term") unless terminated by either party giving not less than 30 days' notice in writing, to expire on the last day of an Initial Term or Renewal Term.
- 12.2 Either party may terminate this Agreement if: (a) the other party is in material or persistent breach of any of the terms of this Agreement and in the case of a breach capable of remedy having been notified of any such breach has failed to remedy the same within 14 days; or (b) the other party is dissolved or ceases to carry on its business or has a liquidator, receiver or administrative receiver appointed to it or over any part of its undertaking or assets or passes a resolution for its winding up or a court of competent jurisdiction will make an administration order or liquidation order or similar order, or will enter into any voluntary arrangement with its creditors, or will be unable to pay its debts as they fall due or any analogous event occurs to the other party in any jurisdiction.
- 12.3 GIS may terminate this Agreement with immediate effect if Client (or any of its shareholders or directors or equivalent) becomes subject to any Sanction, or continuation of the Agreement would (in the reasonable opinion of FT) expose FT or any of its affiliated companies to any Sanction, where "Sanction" means any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom, Hong Kong or United States of America.
- 12.4 On termination for any reason all rights granted to Client under this Agreement will cease and Client will immediately return to GIS, GIS's proprietary and confidential information, including software, if any, and all copies and documentation of the foregoing, along with a signed written statement certifying Client's compliance with this clause 12.4.

- 12.5 Any provision of this agreement which expressly or by implication is intended to come into or continue in force on or after termination of this agreement will remain in full force and effect.
- 12.6 Any termination of this Agreement is without prejudice to any other rights or remedies a party may be entitled to under this Agreement or at law and will not affect any accrued rights or liabilities of either party. Termination of this Agreement will not relieve Client of its obligation to pay GIS any outstanding Fees.

13 CONFIDENTIALITY

- 13.1 Except as expressly permitted under this Agreement, each party agrees to keep confidential (both before, during and after the Term) the terms of this Agreement and all information, whether written or oral, concerning the business or affairs of the other (including information relating to the other party's customers or suppliers, financial information, projections, technology, product ideas, marketing plans or business plans) that it has received or obtained from the other or may receive or obtain from the other and will not use the same without the prior written consent of the disclosing party for any purpose except as expressly permitted under this Agreement. This obligation will not apply to information which is in the public domain (other than as a result of a breach of any confidentiality obligation) or in the case of any disclosure required by law provided that Client will use all reasonable endeavors and act in good faith to consult with GIS wherever practicable before disclosing such information.
- 13.2 Each party agrees not to make any announcement regarding this Agreement or the activities associated with it without the prior written consent of the other party, save that GIS may include the Client name and logo on its websites and in any list of clients or marketing materials issued by GIS and describe the project and the Services provided by GIS to Client.

14 FORCE MAJEURE

With the exception of Client's obligation to pay the Fees, neither party will be liable for any failure to perform its obligations under this Agreement if such performance is hindered or prevented by any matter beyond the reasonable control of the party whose performance is hindered or prevented (including without limitation by reason of any failure, interruption, or degradation of any third party telecommunications network or system or hardware or the Internet or any part of it) (a "Force Majeure Event"). If a Force Majeure Event continues for more than one month then either party may immediately terminate this Agreement on written notice to the other (provided that the Force Majeure Event is still continuing on the date of that notice).

15 GENERAL

- 15.1 This Agreement does not confer any exclusive rights to Client.
- 15.2 No provision of this Agreement may be amended, modified, discharged or terminated other than by the express written agreement of the parties.

15.3 No failure or delay by either party in exercising any right, power or privilege under this Agreement will operate as a waiver thereof nor will any single or partial exercise by either party of any right, power or privilege preclude any further exercise thereof or the exercise of any other right, power or privilege.

15.4 Any notice, consent or other communication required to be given hereunder will be made in writing to the Relationship Manager at the address set out on the Term Sheet (and when given by Client also copied to GIS's General Counsel at The Financial Times, Number One Southwark Bridge, London SE1 9HL) and will be delivered by hand, courier or recorded delivery to the other party and will be deemed to have been received (if delivered by hand) at the time of the delivery or (if sent by courier or recorded delivery) upon the date of receipt (as evidenced by signature of the receiving party's representative).

15.5 Nothing in this Agreement will be deemed to create a partnership, agency or joint venture between the parties.

15.6 This Agreement constitutes the entire agreement between the parties as to the subject matter hereof and supersedes all previous communications, representations and arrangements, either written or oral, and each party hereby acknowledges that no reliance is placed on any representation made by the other party before the Agreement Date but not embodied in this Agreement.

15.7 If any provisions of this Agreement will be held illegal or unenforceable by a court of competent jurisdiction then such provisions will be severed and the remainder of this Agreement will remain in full force and effect unless the business purpose of this Agreement is substantially frustrated thereby in which case this Agreement will automatically terminate.

15.8 This Agreement may not be assigned, licensed, sub-licensed or otherwise transferred by Client without the prior written consent of GIS.

15.9 Anyone who is not a direct party to this Agreement will not have any rights to enforce its terms. The rights of the parties to terminate, rescind or agree any variation, waiver or settlement under this agreement are not subject to the consent of any other person.

16 DISPUTES AND GOVERNING LAW

All contractual and non-contractual claims arising from or in connection with this Agreement shall be governed by and construed in accordance with the laws of the state of New York (without regard to its conflict of laws provisions) and the parties submit to the exclusive jurisdiction of the federal and state courts located in New York City.