



BOARD OF SUPERVISORS AGENDA ITEM REPORT
AWARDS / CONTRACTS / GRANTS

Award Contract Grant

Requested Board Meeting Date: April 5, 2022

* = Mandatory, information must be provided

or Procurement Director Award:

***Contractor/Vendor Name/Grantor (DBA):**

Surgo Ventures

***Project Title/Description:**

Data License Agreement between Surgo Ventures and Pima County

***Purpose:**

The purpose of this project is to provide a deeper look into vulnerable areas in Pima County identified by the CCVI and CVAC indicators (see metrics below). The dashboard was designed under CTN-HD-22-059, a data sharing agreement. This Agreement licenses to the County the proprietary data that has been collected by Surgo Ventures and pertains to Pima County.

***Procurement Method:**

This Agreement is a non-Procurement Agreement and not subject to Procurement rules.

***Program Goals/Predicted Outcomes:**

This project delivered a dashboard which provides a map view of Pima County overlaid with the indicators that point to hot spot census tracts. This provides a way to determine areas in Pima County that need more attention. This dashboard can be used as a planning tool to improve the overall health of the residents of Pima County. This Data Licensing Agreement gives the data to Pima County in perpetuity.

***Public Benefit:**

This dashboard allows the public and community partners to have a map view of how vaccination rates and health, social, and economic indicators are affecting Pima County communities. This information may be used to plan outreach to help the struggling hot spots identified within this dashboard. By giving the data to Pima County in perpetuity, this information can continue to be used for many years in the future.

***Metrics Available to Measure Performance:**

CCVI – COVID-19 Community Vulnerability Index: captures different dimensions of vulnerability across health, social and economic domains.
CVAC – COVID-19 Vaccine Coverage Index: can help identify which communities are likely to face challenges and why, based on five thematic areas.

***Retroactive:**

No.

TO: COB 3-23-22 (1)
VERS: 1
PGS: 7

THE APPLICABLE SECTION(S) BELOW MUST BE COMPLETED

Click or tap the boxes to enter text. If not applicable, indicate "N/A". Make sure to complete mandatory (*) fields

Contract / Award Information

Document Type: CTN Department Code: HD Contract Number (i.e., 15-123): 22-119
Commencement Date: 04/05/2022 Termination Date: Perpetual Prior Contract Number (Synergen/CMS): N/A
Expense Amount \$ 0.00 * Revenue Amount: \$ 0.00

*Funding Source(s) required: N/A - no cost agreement

Funding from General Fund? Yes No If Yes \$ %

Contract is fully or partially funded with Federal Funds? Yes No

If Yes, is the Contract to a vendor or subrecipient?

Were insurance or indemnity clauses modified? Yes No

If Yes, attach Risk's approval.

Vendor is using a Social Security Number? Yes No

If Yes, attach the required form per Administrative Procedure 22-10.

Amendment / Revised Award Information

Document Type: Department Code: Contract Number (i.e., 15-123):

Amendment No.: AMS Version No.:

Commencement Date: New Termination Date:

Prior Contract No. (Synergen/CMS):

Expense Revenue Increase Decrease

Amount This Amendment: \$

Is there revenue included? Yes No If Yes \$

*Funding Source(s) required:

Funding from General Fund? Yes No If Yes \$ %

Grant/Amendment Information (for grants acceptance and awards)

Award Amendment

Document Type: Department Code: Grant Number (i.e., 15-123):

Commencement Date: Termination Date: Amendment Number:

Match Amount: \$ Revenue Amount: \$

*All Funding Source(s) required:

*Match funding from General Fund? Yes No If Yes \$ %

*Match funding from other sources? Yes No If Yes \$ %

*Funding Source:

*If Federal funds are received, is funding coming directly from the Federal government or passed through other organization(s)?

Contact: Sharon Grant

Department: Health

Telephone: 724-7842

Department Director Signature: Paula S. Frank Date: 17 March 2022

Deputy County Administrator Signature: Date: 18 March 2022

County Administrator Signature: Date: 3/21/22

From: [INS REVIEW](#)
To: [Sharon Grant](#)
Cc: [Maria Luna \(Risk\)](#)
Subject: Approval for non-standard insurance
Date: Monday, March 7, 2022 7:55:45 AM
Attachments: [Surgo Data License for signature.docx](#)

Hi Sharon,

Per Risk Management, this is a license agreement for data we are getting at no charge and in perpetuity no insurance required.

Thank you,

Christina Garcia

Insurance Program Coordinator
Pima County Finance & Risk Management
(520)724-9725

From: Sharon Grant <Sharon.Grant@pima.gov>
Sent: Thursday, March 3, 2022 3:36 PM
To: INS REVIEW <INS.REVIEW@pima.gov>
Subject: Approval for non-standard insurance

Greetings. Attached is a Data License Agreement for Surgo Ventures to give us the data for a project we contracted them to do. Since it is their form, it does not include our standard insurance. Our standard indemnification is added in the Addendum which they accepted in the contract so hopefully will not be a problem. Since they are giving us the data at no charge and in perpetuity, it seems that insurance for them is not applicable. Hopefully you agree. Please respond to this email so I have something to attach to the BOS AIR. Thanks for your help!

Sharon Grant, MA
Contracts/Grants Manager
Pima County Health Department
3950 S. Country Club Rd., #100
Tucson, AZ 85714
Sharon.grant@pima.gov
520-724-7842

DATA LICENSE AGREEMENT

THIS DATA LICENSE AGREEMENT (“License”) is made and entered into as of April 5, 2022, (“Effective Date”) between Surgo Ventures, Inc., a 501(c)(3) organization formed under the laws of the State of Delaware with a place of business at 1701 Rhode Island Ave NW, Washington, DC 20036 (“Surgo”) and Pima County, a political subdivision of the State of Arizona, formed under the laws of Arizona (“Licensee”). Surgo and Licensee shall individually be referred to as a “Party” and collectively as the “Parties.”

WHEREAS, Surgo owns certain proprietary data including data regarding the COVID-19 Community Vulnerability Index (CCVI), COVID-19 Vaccine Coverage Index, and COVID-19 Vaccine Personas Survey (the “Data”); and

WHEREAS, Licensee is desirous of licensing the Data from Surgo to use the data in connection with the census-tract level COVID-19 vaccine solutions dashboard and deployment of the COVID-19 Vaccine Personas Typing Tool within a zip code-level vaccine hesitancy survey (the “Purpose”) and Surgo is willing to license the Data to Licensee in accordance with the terms and conditions of this License.

NOW THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, the Parties agree as follows:

1. License: Surgo hereby grants to Licensee a nonexclusive, worldwide, royalty-free, non-sublicensable, license to reproduce, create and publish derivative works from and distribute the Data within Licensee’s internal systems, and/or with agents acting on behalf of the Licensee, in connection with the Purpose during the Term set forth below.

- a. Licensee acknowledges and agrees that the Data (i) shall only be used in connection with the Purpose, (ii) is Surgo’s proprietary and confidential information and, except as required by the Purpose, Licensee shall take all reasonable measures to protect the confidentiality of the Data and avoid disclosure and unauthorized use of the Data, and shall not disclose the Data to any third party except as required by the Purpose.

2. Consideration and Payment: This License is royalty-free.

3. Attribution: All of Licensee’s use of the data that is published or distributed shall be attributed to Surgo Ventures, Inc.

4. Ownership: Subject to the license granted herein, the Data is, and at all times shall remain, the property of Surgo. Surgo shall own the copyrights in and to (i) the Data, (ii) the explanations of the methodology used to create the Data, and derivative works created from the Data. Licensee shall not reverse engineer, disassemble or decompile the Data. Surgo warrants and represents that the grant of license rights in Section 1 complies with the terms of any other licenses that may be applicable to data and processes used by Surgo to compile and analyze the Data.

5. Term and Termination:

- a. The term of this License (the "Term") shall commence on the Effective Date and shall be perpetual.
- b. Surgo may terminate this License at any time after the occurrence of an Event of Default. As used herein, "Event of Default" means a material breach, default or noncompliance by Licensee of or with any term or condition hereof followed by written notice of such breach and failure to remedy or correct such breach within thirty (30) days after receipt of such notice.
- c. Upon the expiration or termination of this License, Licensee cease and desist from all further use of the Data and shall either (i) delete from its computer systems and otherwise destroy or (ii) return to Surgo all copies of the Data..

6. No Warranty: THE DATA IS PROVIDED "AS IS". SURGO MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS, IMPLIED OR OTHERWISE, REGARDING THE ACCURACY OR COMPLETENESS OF THE DATA.

7. Indemnification.

- a. Licensee shall indemnify, defend, and hold harmless Surgo and its officers, directors and employees against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including attorneys' fees, fees and the costs of enforcing any right to indemnification under this License, relating to or arising out of or resulting from any claim or demand of a third party arising out of or occurring in connection with Licensee's publication of written content, images or photographs in connection with the Data.
- b. Surgo shall indemnify, defend, and hold harmless Licensee and its officers, directors and employees against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including attorneys' fees, fees and the costs of enforcing any right to indemnification under this License, relating to or arising out of or resulting from any claim or demand of a third party arising out of or occurring in connection with the Data provided that the Data has not been manipulated or modified by Licensee.

8. Nothing in this License shall be deemed to place the Parties in the relationship of principal-agent, partners or joint ventures.

9. Notices. All notices required by this License shall be in writing and may be sent to the other Party by either overnight delivery service to the addresses set forth below. Notice shall be effective upon receipt.

If to Surgo:

Surgo Ventures, Inc.
1701 Rhode Island Ave NW
Washington, DC 20036
admin@surgoventures.org

If to Licensee:

Theresa Cullen, MD, Director
Pima County Health Department
3950 S. Country Club Rd., #100
Tucson, AZ 85714
Theresa.cullen@pima.gov

10. Limitation of Liability. EXCEPT AS PROHIBITED BY LAW, IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY INDIRECT, PUNITIVE, INCIDENTAL, LOST PROFITS, REVENUES, SPECIAL OR CONSEQUENTIAL DAMAGES WHETHER BASED ON CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, EVEN IF ADVISED OF THE POSSIBILITY OF ANY SUCH DAMAGES, PROVIDED, HOWEVER, THAT THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY WITH RESPECT TO DAMAGES INCURRED AS A RESULT OF (A) THE GROSS NEGLIGENCE, RECKLESSNESS OR WILLFUL MISCONDUCT OF A PARTY, (B) A PARTY'S OBLIGATIONS OF INDEMNIFICATION, AS FURTHER DESCRIBED IN THIS AGREEMENT, OR (C) A PARTY'S BREACH OF ITS OBLIGATIONS OF CONFIDENTIALITY, AS FURTHER DESCRIBED IN THIS AGREEMENT.

11. Governing Law. The validity, construction and performance of this License shall be governed by and interpreted in accordance with the laws of the State of Delaware, without reference to principles of conflict of law. All disputes arising under or relating to this License or the Services shall be determined in a State or Federal court located in Delaware County, Delaware. The Parties expressly acknowledge the jurisdiction of these courts over such disputes and that such courts have personal jurisdiction over them in connection with such disputes. The Parties acknowledge and agree that delivery of a summons and complaint by overnight delivery service shall constitute goods and sufficient service thereof.

12. Amendment/Assignment. This License may only be amended in a writing executed by both Parties. A Party may freely assign this License to an entity wholly owned, directly or indirectly, by that Party or to a party that acquires the majority of the Party's assets through merger or acquisition. Except as permitted by this Section 12, a Party shall not assign this License or any duties or obligations of a Party under this License, in whole or in part, without the express written consent of the other Party.

13. Severability. If any provision of this License is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force and effect without being impaired or invalidated in any way.

14. No Third-Party Beneficiaries. This License is for the sole benefit of the Parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or will confer upon any third party any legal or equitable right, benefit, or remedy of any nature whatsoever, under or by reason of this License.

15. Complete Agreement. This License shall constitute the entire contract between the Parties and supersedes any existing agreements, either oral or written, with respect to the Data. When construing this License, it shall be deemed to have been fully negotiated between and drafted by parties of equal bargaining power.

16. Execution in Counterparts. This License may be executed in one or more counterparts, each of which shall be considered an original, and all such counterparts together shall be deemed an original. Delivery of an executed counterpart by electronic mail or facsimile shall be effective as delivery of a manually executed counterpart of this License.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK

STANDARD CONTRACT ADDENDUM

The following terms are added to and form a part of the Data Sharing Agreement between Pima County ("County") and Surgo Ventures, ("Contractor").

1. **Conflict of Interest:** This Agreement is subject to cancellation for conflict of interest pursuant to A.R.S. § 38-511, the pertinent provisions of which are incorporated into this Agreement by reference.
2. **Non-Appropriation of Funds.** Notwithstanding any other provision in this Agreement, County may terminate this Agreement if for any reason there are not sufficient appropriated and available monies for the purpose of maintaining County or other public entity obligations under this Agreement. In the event of such termination, County will have no further obligation to Contractor, other than to pay for services rendered prior to termination.
3. **Books and Records.** Contractor will keep and maintain proper and complete books, records and accounts, which will be open at all reasonable times for inspection and audit by duly authorized representatives of County. In addition, Contractor will retain all records relating to this Contract for at least five (5) years after its expiration or termination or, if later, until any related pending proceeding or litigation has concluded.
4. **Indemnification.** To the fullest extent permitted by law, Contractor will defend, indemnify, and hold harmless Pima County and any related taxing district, and the officials and employees of each of them (collectively, "Indemnitee") from and against any and all claims, actions, liabilities, losses, and expenses (including reasonable attorneys' fees) (collectively, "Claims") arising out of actual or alleged injury of any person (including death) or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by any act or omission of Contractor or any of Contractor's directors, officers, agents, employees, volunteers, or subcontractors. This indemnity includes any claim or amount arising or recovered under the Workers' Compensation Law or arising out of the failure of Contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. The Indemnitee will, in all instances, except for Claims arising solely from the acts or omissions of the Indemnitee, be indemnified by Contractor from and against any and all Claims. Contractor is responsible for primary loss investigation, defense and judgment costs for any Claim to which this indemnity applies. This indemnity will survive the expiration or termination of this Agreement.
5. **Public Records.**
 - 5.1. Disclosure. Pursuant to A.R.S. § 39-121 et seq., and A.R.S. § 34-603(H) in the case of construction or Architectural and Engineering services procured under A.R.S. Title 34, Chapter 6, all documents submitted in response to the solicitation resulting in award of this Agreement, including, but not limited to, pricing schedules, product specifications, work

plans, and any supporting documents, are public records. As such, those documents are subject to release and/or review by the general public upon request, including competitors.

- 5.2. Records Marked Confidential; Notice and Protective Order. If Contractor reasonably believes that some of those records contain proprietary, trade-secret or otherwise-confidential information, Contractor must prominently mark those records "CONFIDENTIAL." In the event a public-records request is submitted to County for records marked CONFIDENTIAL, County will notify Contractor of the request as soon as reasonably possible. County will release the records 10 business days after the date of that notice, unless Contractor has, within that period, secured an appropriate order from a court of competent jurisdiction, enjoining the release of the records. County will not, under any circumstances, be responsible for securing such an order, nor will County be in any way financially responsible for any costs associated with securing such an order.

6. Laws and Regulations.

- 6.1. Compliance with Laws. Notwithstanding any provision in this Agreement to the contrary, the Agreement shall be governed by all applicable federal, state, and local laws, rules, regulations, standards and Executive Orders.
- 6.2. Licensing. Contractor warrants that it is appropriately licensed to provide the services under this Agreement and that any subcontractors will be appropriately licensed.
- 6.3. Choice of Law; Venue. The laws and regulations of the State of Arizona govern the rights and obligations of the parties under this Agreement. Any action relating to this Agreement must be filed and maintained in the appropriate court of the State of Arizona in Pima County.

7. **Protected Health Information.** No protected health information as described in 45 C.F.R. §160.103 of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) will be disclosed or shared between the parties in the performance of this Agreement.

8. **Non-Discrimination.** Contractor will comply with all provisions and requirements of Arizona Executive Order 2009-09, which is hereby incorporated into this contract, including flow-down of all provisions and requirements to any subcontractors. During the performance of this Agreement, Contractor will not discriminate against any employee, client or any other individual in any way because of that person's age, race, creed, color, religion, sex, disability or national origin.

9. **Legal Arizona Workers Act Compliance.** If Contractor, under this Agreement, furnishes labor, time or effort to County within the State of Arizona, the following applies: Contractor warrants that it will at all times during the term of this Agreement comply with all federal immigration laws applicable to its employment of its employees, and with the requirements of A.R.S. § 23-214 (A) (together the "State and Federal Immigration Laws"). Contractor will further ensure that each subcontractor who performs any work for Contractor under this Agreement likewise complies with the State and Federal Immigration Laws. A breach of this paragraph will be deemed a material

breach of this Agreement that subjects Contractor to penalties up to and including termination of the Agreement. County retains the legal right to inspect the papers of any Contractor or subcontractor employee who works on the Agreement to ensure that the Contractor or subcontractor is complying with this warranty.

IN WITNESS WHEREOF, the Parties have executed this License on the Effective Date first written above.

SURGO VENTURES, INC.

By: SSgaier
Name: Sema K Sgaier
Title: CEO
Date: 03/16/2022

PIMA COUNTY

By: _____
Name: Sharon Bronson
Title: Chair, Board of Supervisors
Date: _____

ATTEST

Clerk of the Board

Date

APPROVED AS TO FORM

Jonathan Pinkney
Deputy County Attorney

Print DCA Name

3/17/22
Date

APPROVED AS TO CONTENT

Paul S. Throckmorton
Department Representative

17 March 2022
Date