

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
OF THE COUNTY OF SAN BERNARDINO
AND RECORD OF ACTION**

May 18, 2021

FROM

LEONARD X. HERNANDEZ, Chief Executive Officer, County Administrative Office

SUBJECT

Contract for MotionVFX MO2

RECOMMENDATION(S)

Approve **Contract No. 21-379** governed by Polish law for MotionVFX MO2, to be accepted electronically, for 3-dimensional plugin software, a real-time rendering engine for 3-dimensional animations for logo intros, scene/camera angle transitions and other special effects for presentations and video productions that seamlessly integrates with Apple software applications, such as Final Cut Pro X and Apple Motion.

(Presenter: Luther Snoke, County Chief Operating Officer, 387-5425)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

Improve County Government Operations.

FINANCIAL IMPACT

Approval of this item will not require the use of additional Discretionary General Funding (Net County Cost). The cost of this software is \$955 for five licenses. Sufficient appropriation exists in the 2020-21 County Administrative Office – Multimedia Services budget to fund this software and will be included in future recommended budgets.

BACKGROUND INFORMATION

Multimedia Services produces graphic design content for the Board of Supervisors (Board) and County Administrative Office, and utilization of this software would help improve its content. The five licenses purchased would be used by current Multimedia Services staff. Per Policy 11-05, non-standard contract language must be approved by the Board. The company that develops this software is located in Poland, with no apparent presence within the United States, and the terms and conditions of the contract are governed by the laws of Poland, not the laws of the State of California per the Policy. In addition, the English translation of the contract is not enforceable, only the version in the Polish language shall apply in the event of doubt or inconsistency. Because County Counsel is not licensed to advise on Polish law there is no specific analysis of possible legal impacts from any contract provisions, including those that appear (in the English translation) to be inconsistent with County Policy 11-05. As a result, under the California State Bar Rules of Professional Conduct, County Counsel cannot approve the contract as to form, however, if the Board of Supervisors approves the contract, it is recommended that the current version of the contract in the Polish language be maintained in the official records of the County of San Bernardino. However, it is apparent that the terms and conditions of the contract in the English translation do not comply with California and United States privacy laws as they relate to the disclosure of personal data since the user cannot be

required to agree to receive marketing information by simply accepting the terms of use. The potential factual impact is that personal data, including those gathered from cookies (data stored on the user's computer while browsing a website), could be shared with third parties when explicit permission from the user has not been granted.

PROCUREMENT

Not Applicable.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Penny Alexander-Kelley, Chief Assistant County Counsel, 387-5455) on May 10, 2021; Finance (Stephenie Shea, Administrative Analyst, 387-4919) on May 5, 2021; and County Finance and Administration (Matthew Erickson, County Chief Financial Officer, 387-5423) on May 7, 2021.

Contract for MotionVFX MO2
May 18, 2021

Record of Action of the Board of Supervisors
County of San Bernardino

APPROVED (CONSENT CALENDAR)

Moved: Joe Baca, Jr. Seconded: Janice Rutherford
Ayes: Col. Paul Cook (Ret.), Janice Rutherford, Dawn Rowe, Curt Hagman, Joe Baca, Jr.

Lynna Monell, CLERK OF THE BOARD

BY 
DATED: May 18, 2021



cc: CAO- Shea w/agree
Contractor- C/O CAO w/agree
File- w/agree
LA 05/25/2021