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INFORMATION SECURITY SERVICES AGREEMENT – Page 1 of 3

BETWEEN: BPM LLP ("BPM LLP")
One California Street, Suite 2500
San Francisco, CA 94111

AND: City of Newport ("Client")
169 SW Coast Hwy
Newport, Oregon 97365

EFFECTIVE DATE: April 6, 2022

PRICE:
Comprehensive Penetration Test: \$26,380
SCADA Assessment: \$5,700
Remediation Verification: \$175 / hour

Services to be Performed: At the client's request, BPM LLP is contracted to perform the following services:

- ☒ **Comprehensive Penetration Test** ☐ Active Directory Password Audit ☐ Information Security Risk Assessment
- ☒ **Remediation Verification (Optional)**
- ☐ Web Application Penetration Test ☐ System / Device Configuration Review ☐ Information Security Program Review
- ☐ Mobile Application Penetration Test ☐ White Box Firewall Review ☐ Periodic Remote Scans
- Client Operating System(s):
- ☐ Wireless Access Point Penetration Test ☐ Social Engineering Awareness Training ☒ **Other Service: SCADA Assessment (3.5 days onsite)**

Scope of Work: BPM LLP will perform the services as described in the proposal from BPM LLP dated March 24, 2022.

Term of Agreement: Except as provided in Section 6 herein, this agreement shall commence on the Effective Date set forth above, and shall continue until completion of the services covered by this agreement, or full payment by Client to BPM LLP, whichever is later.

- Charges and Invoicing.** Client shall pay BPM LLP the sums detailed above and in the BPM LLP proposal, referenced, and incorporated herein. All charges shall be due and payable within 15 days from the date of invoice by BPM LLP. Charges not paid within the 15-day period shall constitute a delinquent account and shall be assessed a finance charge of 1½% per month. BPM LLP will invoice when report is delivered.

Email address for invoice:	r.dutton@newportoregon.gov
Send invoice to the attention of:	Richard Dutton
Physical Address (if different from above):	Same as above

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2. **Inherent Risks.** Client understands that security assessments, program reviews, and risk assessments are a difficult and imperfect undertaking. While assessing and remediating known security issues should improve the security of client's computer system, no computer system is completely safe from attack or penetration.

Client further understands that the scanning and probing BPM LLP undertakes as part of this agreement can negatively impact the performance of the client's computer system, up to and including blocking access or services, in a few extreme cases.

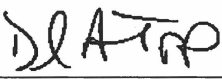
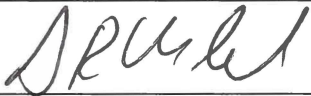
CLIENT PERSONNEL MAY BE INVOLVED IN THE COLLECTION AND ANALYSIS OF DATA RELATING TO ASSESSMENT AND REMEDIATION SERVICES. CLIENT SPECIFICALLY UNDERSTANDS THAT THIS INVOLVEMENT MAY INTRODUCE INACCURACIES IN RESULTS AND SPECIFICALLY AGREES TO HOLD BPM LLP HARMLESS FOR RELYING ON INFORMATION PRESENTED BY CLIENT PERSONNEL.

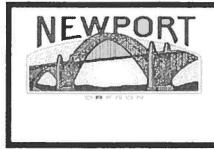
3. **Hardware and Software licenses/ownership.** BPM LLP has licensed hardware and software products to scan, probe, and otherwise analyze Client's computer system(s). These licenses are owned by BPM LLP and do not extend to use by Client. Client agrees to abide by all licensing agreement and promptly uninstall and return any software left on Client's computer system or premises.
4. **Confidentiality.** Neither Client nor BPM LLP shall disclose or use the information provided from one to the other except as required by law or as necessary to perform or enforce this agreement. Both Client and BPM LLP shall take all reasonable precautions to prevent such disclosure or use of any such information. In the event of the loss of any item containing such information, Client or BPM LLP, as the case may be, shall promptly notify the other party in writing of such loss, describing the item and its contents. No duty of confidentiality shall exist in respect of any information which (i) has been disclosed to the disclosing party by a third party not under any obligation to the party claiming proprietary rights in such information, or (ii) enters into the public domain by no fault of the disclosing party, or (iii) is disclosed pursuant to legal process, or (iv) which the receiving party proves was known to it before receipt of such information from the disclosing party, or (v) was developed independently by the receiving party without access to such disclosure. The provisions of this section shall survive the termination of this agreement and remain in effect and enforceable thereafter.
5. **Warranty and Limitation of Liability.** BPM LLP shall assign to Client any manufacturer's warranties covering parts or components used in connection with the services provided pursuant to this agreement. BPM LLP warrants to Client that all services provided by BPM LLP to Client pursuant to the terms of this agreement will be performed consistent with industry standards; provided, however, that any audit, assessment or remediation check services provided by BPM LLP are provided "AS IS" without warranty of any kind. The foregoing is expressly in lieu of all other warranties, express, implied, or statutory, for any services provided or parts or components used in connection with such services, including the implied warranties of merchantability and fitness for a particular purpose. The liability of BPM LLP under this warranty, or for any damages related to the services provided hereunder, is limited to the amount charged by BPM LLP for any services found to violate the warranty, and of which BPM LLP is advised within one (1) year from the time such services were provided. BPM LLP shall in no event be liable for any loss, injury, or damages to person or property, nor for any direct, consequential, incidental, special, economic, punitive, or other damages whatsoever (including, without limitations, damages for loss of business profits, business interruption, or loss of business information), even if BPM LLP has been advised of the possibilities of such damages. Furthermore, and in accordance with the Oregon Tort Claims Act and Oregon Constitution, Client agrees to hold harmless and indemnify BPM LLP for any claims or damages arising from the legitimate efforts towards fulfillment of project goals, including claims from third party vendors (including hosting, ISP and ASP vendors), to the extent attributable to the negligence of Client.
6. **Termination of Agreement.** The agreement may be terminated as follows:
 - a. Client may terminate the agreement with 30 days written notice,
 - b. Client may terminate the agreement immediately if BPM LLP materially fails to comply with the terms of this agreement and does not correct said failure within 30 days of receiving written notice of failure.
 - c. BPM LLP may terminate the agreement immediately if Client fails to perform the terms of this agreement, including the failure to pay charges when due.
 - d. BPM LLP may terminate the agreement immediately if BPM LLP's business or the business of its suppliers is interrupted for any cause that is beyond the reasonable control of BPM LLP.
 - e. Client shall return any equipment, software, manuals or other documentation to BPM LLP within five days of terminating this agreement.

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Termination by either party shall not relieve Client of its obligations to make payments to BPM LLP for work completed before the termination.

7. **Arbitration and Attorney Fees.** The parties agree that disputes or claims arising out of this agreement or the making, performance or interpretation of the agreement shall be settled by arbitration in Newport, Oregon, in accordance with the provisions of ORS 36.600-36.740 or any successor statutes, and judgment on the arbitration award may be entered in any court having jurisdiction over the subject matter of the controversy. In the event that arbitration or litigation is instituted arising directly or indirectly out of this agreement, the losing party shall pay to the prevailing party its costs and expenses reasonably incurred, including attorney fees, at any arbitration, trial or appeal and for any post judgment proceedings to collect and enforce the judgment.
8. **Modification.** This agreement shall not be modified except by written agreement of the parties, shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, and shall be governed by and interpreted in accordance with the laws of the state of Oregon.
9. **Entire Agreement.** The terms and conditions stated within this agreement, including any addenda hereto supersede all prior agreements between the parties relating to the subject matter hereof.
10. **Survival.** The rights and obligations set forth in this agreement, including but not limited to sections 8, 9 and 10, will survive any termination of this agreement.
11. **Severability.** In the case that any one or more of the provisions or parts of a provision contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other provision or part of a provision of this Agreement or with respect to any other jurisdiction, but this Agreement shall be reformed and construed in any such jurisdiction as if such invalid or illegal or unenforceable provision or part of a provision had never been contained herein and such provision or part reformed so that it would be valid, legal, and enforceable to the maximum extent permitted in such jurisdiction.

BPM LLP:	CLIENT:
By: David Trepp	By (Please Print): Spencer R. Nebel
Signature: 	Signature: 
Title: Partner, IT Assurance	Title: City Manager
Date: April 6, 2022	Date: April 11, 2022



AUTHORIZATION FOR
AGREEMENTS, MOUs, OR
OTHER DOCUMENTS OBLIGATING
THE CITY

All contracts, agreements, grant agreements, memoranda of understanding, or any document obligating the city (with the exception of purchase orders), requires the completion of this form. The City Manager will sign these documents after all other required information and signatures are obtained.

Document: BPM Information Security Services Date: 4/1/22

Statement of Purpose: Comprehensive Penetration Testing, SCADA assessment
and Remediation Verification

Department Head Signature: R. Dwyer

Remarks, if any: _____

City Attorney Review and Signature: David D. Allen Date: 4/06/2022

Other Signatures as Requested by the City Attorney: _____

Signature _____ Name/Position _____
Date: _____

Budget Confirmed: Yes ☒ No ☐ N/A ☐

Certificate of Insurance Attached: Yes ☐ No ☐ N/A ☒

City Council Approval Needed: Yes ☐ No ☒ Date: _____

After all the above requested information is complete and signatures obtained, return this form, along with the original document to the City Manager for signature. No documents should be executed prior to the City Manager's approval as evidenced by signature of this document.

City Manager Signature: [Signature] Date: 4/11/22

Once all signatures and certificates of insurance have been obtained, return this document, along with the original, fully-executed agreement, MOU, or other document to the City Recorder. A copy of grant agreement and all project funding documents, must be forwarded to the Finance Department for tracking and audit purposes.

City Recorder Signature: _____ Date: _____

Date posted on website: _____

