



# City of North Port

## Office of the City Attorney

4970 City Hall Boulevard  
North Port, Florida 34286  
(941) 429-7260  
www.cityofnorthport.com

To: Jeff Kasson, IT Manager

From: Michael Golen, Assistant City Attorney

Through: Amber L. Slayton, City Attorney

Date: June 22, 2018

Re: Request for Legal Services – Agreement with Sarasota County for Datacenter

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The above-referenced Request for Legal Services has been reviewed.

The attached revised Agreement has been negotiated between the City Attorney's Office and the County's Contract Administration Department. It is legally correct as to form.

Please be aware that there is language in the Agreement that the City Attorney's Office raised objection to; however, the County has refused to remove the language from the Agreement. The objectionable language appears in section 10.d. and is as follows:

“The parties agree to waive all rights to trial by jury for any litigation undertaken concerning this Agreement.”

According to the County's Contract Administration Department, the County's policy is to include this language in all of their agreements. The City Attorney's Office has negotiated the removal of similar language from County agreements in the past. It is unknown if this is a new policy or if it only applies to these types of agreements.

The City Attorney's Office objects to any contractually obligated waiver of the City's constitutional right to a jury trial. Should a dispute of this Agreement result in litigation, it may be appropriate at the time of the lawsuit, and based on the facts of the dispute, for the City to waive its right to a jury trial. However, it would be premature to agree to do so at this time.

The City may enter into this Agreement as it is legally correct as to form. Should a dispute arise, section 10 of the Agreement provides steps that must be taken prior to bringing a lawsuit.

Additionally, the nature of this Agreement may make a breach of contract bench trial preferable to a jury trial.

Please let me know if there are any questions, comments, or concerns from your department. If your department or the County make any additional changes, the document will require additional legal review. Otherwise, no further action will be taken on this Request for Legal Services.

The matter will be deemed concluded once the City Attorney's Office receives a final version of the document. The file will then be closed.