

**AGREEMENT FOR
ALTERNATIVE DISPUTE RESOLUTION SERVICES**

This Agreement for Alternative Dispute Resolution Services (hereinafter referred to as the "Agreement") is by and between Comal County, Texas, a political subdivision of the State of Texas (hereinafter referred to as the "County") and Central Texas Alternative Dispute Resolution, Inc., a Texas nonprofit corporation (hereinafter referred to as the "DRC"). In this Agreement, the County and the DRC sometimes are referred to jointly as the "Parties" and individually as a "Party."

WHEREAS, the DRC is a Texas nonprofit corporation serving Central Texas, whose principal purpose is to provide the citizens of the County and surrounding counties with access to affordable, quality, effective, alternative dispute resolution ("ADR") services, including mediation, negotiation, facilitation, and conciliation; and

WHEREAS, the DRC's other purposes include providing the citizens of the County and surrounding counties with education and training regarding ADR services, including mediation, negotiation, facilitation, and conciliation; and

WHEREAS, the County finds significant public benefit in providing a more-peaceable atmosphere in the community, relieving crowded court dockets, reducing the costs of litigation, and saving the County's taxpayers money by making available to the County's residents access to affordable, quality, effective ADR services, including mediation, negotiation, facilitation, and conciliation, as well as education and training regarding ADR services.

NOW THEREFORE, in consideration of the promises and covenants exchanged below, the Parties agree to the following:

I. RESPONSIBILITIES OF THE DRC

A. To Provide ADR Programs and Services. The DRC will be responsible for providing ADR programs and services to the County's residents. The programs and services will include, but not be limited to, those described in this paragraph.

1. Court-Annexed Mediations. The DRC's programs and services will include mediation, of court-referred civil cases from the district courts, county courts-at-law, or justice of the peace courts, with particular emphasis being given to pro-se cases, cases involving at least one indigent party, cases involving an amount in dispute of \$50,000.00 or less, and divorce, child conservatorship, and child-support cases. There will be no cost to the referred parties of cases from the justice of the peace courts, however parties to district court or county court-at-law cases may incur a minimal fee. The intent of this program is to provide service for low income parties, as such, income and asset guidelines may be applied that are consistent with guidelines in other counties served by the DRC. The DRC's programs and services under this Agreement shall be provided at one or more convenient and accessible places located in Comal County. The Executive

Director and other DRC staff will work in concert with the County's judges and court coordinators to determine which cases are best suited and most appropriate for referral to mediation.

2. **Community-Based Mediations.** The DRC's programs and services will also encompass mediation of disputes that might arise between neighbors, employers and employees, landlords and tenants, consumers and merchants, or other parties seeking to resolve disputes without the use of litigation. The intent behind offering such services to the community is to make the County a more-peaceable community in which to live, work, and transact business.
3. **Education and Training.** The DRC will provide programs to educate the County's citizens regarding the benefits of ADR techniques, and it will dispense information about resolving disputes in positive, non-violent ways. The DRC's programs and services will include the training of volunteer mediators to serve the community.

B. To Provide Reporting, Requests for Payment, and Management of Programs and Services. The DRC will provide the County with reports of activities and requests for payment as follows:

1. **Reports.** The DRC will provide the County with detailed quarterly and cumulative annual reports regarding (a) its activities, including sources, disposition, and/or current status of all cases completed or pending during each respective period, and (b) its financial status, including revenues and expenditures, for each of those same periods.
2. **Requests for Payment.** The DRC will provide the County with monthly requests for funds to be paid to the DRC from the Alternative Dispute Resolution System Fund. Said monthly requests will contain such reasonable information and details regarding expenses and application of funds as the County Auditor, or his designee, deems necessary.
3. **Management of Programs and Services.** The DRC will manage its own programs and services and implement rules, procedures, and policies that control or direct all affairs of its programs and services. The DRC will also maintain and administer one or more operating accounts separate and distinct from the County's ADR System Fund. The DRC's operating account(s) may be funded by user fees, grants, donations, fundraising activities, and funds from other programs and services, in addition to any amounts provided by the County. The County Auditor shall have a right, upon provision of reasonable written notice to DRC, to review and audit all DRC accounts, regardless of the funding source(s) for those accounts. All reviewing and auditing of DRC accounts shall be performed during regular business hours.

C. To Maintain Insurance. The DRC will maintain in full force and effect, during the entire term of this Agreement, a policy of general liability insurance in which the limits shall not be less than \$100,000.00 for each person and \$300,000.00 for each single occurrence for bodily injury or death and \$100,000.00 for each single occurrence

for destruction of property. The policy will name the County and the DRC as insured parties, and it will contain a clause that the insurer will not cancel or change the insurance without first giving the County at least ten days' prior written notice. The insurance will be from a company acceptable to the County, and a copy of the policy or certification of insurance will be delivered to the County.

II. RESPONSIBILITIES OF THE COUNTY

- A. To Maintain and Administer an ADR System Fund.** In accordance with the provisions of Section 152.004 of the Texas Civil Practice and Remedies Code, the County has established and is administering, and will continue to administer during the term of this Agreement, an ADR system fund by collecting a fee of \$15.00 per filing, paid as other court costs, on all civil cases filed in the County at both the district and county court levels, and \$5.00 per filing on all civil cases filed in the justice of the peace courts, excluding (1) suits filed by the County, (2) suits for delinquent taxes, (3) condemnation proceedings under Chapter 21 of the Texas Property Code, and (4) proceedings under Subtitle C, Title 7, of the Texas Health and Safety Code.
- B. To Compensate the DRC for ADR Programs and Services.** The filing fees collected by the County pursuant to Section 152.004 of the Texas Civil Practice and Remedies Code are to be held in the County Treasury in the ADR System Fund. In exchange for the DRC's programs and services, the County will pay the fees held in the ADR system fund to the DRC on a monthly basis, in accordance with the monthly requests for payment that the DRC will submit to the County as provided in this Agreement. All payments, including payment amounts, are subject to the approval of the County Auditor before payment.

III. OTHER TERMS AND CONDITIONS

- A. Availability of Funds.** Both Parties understand that the only funds available from the County for distribution to the DRC for services described in this Agreement will be the funds collected as fees pursuant to Section 152.004 of the Texas Civil Practice and Remedies Code and available in the ADR System Fund.
- B. Relationship of the Parties.** At all times and for all purposes hereunder, the DRC will be an independent contractor, not a County employee. No statement contained in this Agreement will be construed so as to find any employee of the DRC an employee of the County. The DRC, its agents, employees, officers, and directors, will be entitled to none of the rights, privileges, or benefits of County employment unless the County so authorizes. The DRC is and will remain an independent agency with respect to all programs and services it performs under this Agreement.
- C. DRC's Relationships with Others.** The DRC reserves the right to establish relationships with, and to provide ADR programs and services for, other public and private entities and individuals.

D. Term and Termination. This Agreement will be in full force and effect from November 16, 2016 through November 15, 2017, unless otherwise terminated prior to that time by a Party as provided under the terms of this Agreement. This Agreement may be renewed and extended at the end of the primary term, or of any renewal term, by mutual agreement for an additional one-year term, subject to the express written approval of the Commissioners Court of the County. A Party may terminate its performance under this Agreement either upon default by the other Party or without fault by written consent of both parties to terminate the agreement. Should a default occur, the Party against whom the default has occurred shall have the right to terminate all or part of its duties under the terms of this Agreement as of the thirtieth (30th) day following the receipt, by the defaulting Party, of notice describing such default(s) and the intention of the other Party to terminate, provided that: 1) such termination will be ineffective if within said thirty-day period the defaulting Party cures the default, or 2) such termination may, at the sole election of the Party against whom the default has occurred, be stayed pending the cure of the default.

E. Non-Waiver. No waiver of any provision of this Agreement will be deemed or constitute a waiver of any other provision, nor will it be deemed or constitute a continuing waiver unless expressly provided for by a written amendment to this Agreement; nor will the waiver of any default under this Agreement be deemed a waiver of any subsequent defaults of the same type. The failure at any time to enforce this Agreement or covenant by any party or their respective heirs, successors or assigns, whether any violations thereof are known or not, will not constitute a waiver or estoppel of the right to do so.

F. Applicable Law. This Agreement will be governed by and construed according to the laws of the State of Texas. Exclusive venue for any action or claim arising out of this agreement must be in a court of competent jurisdiction in Comal County, Texas.

G. Notice. Any notice or other communication required or permitted hereunder shall be in writing and shall be deemed to have been given on the date of service if served personally, or three (3) days after the date of mailing if mailed, by first class mail, registered or certified, postage prepaid and addressed as follows:

COUNTY:
County Judge
150 N. Seguin Ave.
New Braunfels, TX 78130

DRC:
Executive Director
Central Texas Dispute Resolution Center
829 N. LBJ, Suite 108
San Marcos, Texas 78666

H. Ambiguities. If there are any ambiguities in the interpretation or enforcement of any terms of this Agreement, those ambiguities will not be construed for, or against, any Party on the basis that said Party did not author same.

I. Entire Agreement; Amendment. This Agreement contains all of the covenants and promises

of the Parties relating to the subject matter hereof, and is the full expression of the contract between the Parties. Any amendment of this Agreement will be of no force or effect unless it is in writing and signed by both Parties.

J. Severability. If one or more of the provisions contained in this Agreement is, for any reason, held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will not affect any other provision hereof, and this Agreement will be construed as if such invalid, illegal, or unenforceable provision had never been contained therein.

K. Counterparts. This Agreement may be executed in two or more counterparts, each of which will be considered an original and all of which, taken together, will constitute one and the same instrument.

L. Immunity. No provision of this agreement shall affect or waive any sovereign or governmental immunity available to the County and/or its elected officials, officers, employees and agents under Federal or Texas law nor waive any defenses or remedies at law available to the County and/or its elected officials, officers, employees and agents under Federal or Texas law.

COMAL COUNTY, TEXAS

**CENTRAL TEXAS ALTERNATIVE
DISPUTE RESOLUTION, INC.**

By: _____
Sherman Krause, County Judge

By: _____
Jason C. Irle, Executive Director

Date: _____

Date: _____

ATTEST:

By: _____
Bobbie Koepp, County Clerk