

BEFORE THE BOARD OF SUPERVISORS COUNTY OF TULARE, STATE OF CALIFORNIA

IN THE MATTER OF 2017/2018 TRANSIT) Resolution No. 2018-0557
AGREEMENT WITH THE CITY OF DINUBA) Agreement No. 28722

UPON MOTION OF SUPERVISOR ENNIS, SECONDED BY SUPERVISOR CROCKER, THE FOLLOWING WAS ADOPTED BY THE BOARD OF SUPERVISORS, AT AN OFFICIAL MEETING HELD JUNE 26, 2018, BY THE FOLLOWING VOTE:

AYES: SUPERVISORS CROCKER, VANDER POEL, SHUKLIAN, WORTHLEY,
AND ENNIS
NOES: NONE
ABSTAIN: NONE
ABSENT: NONE



ATTEST: MICHAEL C. SPATA
COUNTY ADMINISTRATIVE OFFICER/
CLERK, BOARD OF SUPERVISORS

BY: Mary Ronello
Deputy Clerk

* * * * *

1. Approved an agreement with the City of Dinuba, in the amount of \$18,463 for the City to provide transit service to County of Tulare residents, retroactive from July 1, 2017 through June 30, 2018. This agreement is retroactive because of ongoing negotiations with and obtaining authorized signatures from the City. It was impractical for the board to take action before July 1, 2017 due to the time needed to process, prepare, and submit the agenda item; and
2. Found that the Board had the authority to enter into the proposed agreement as of July 1, 2017 and that it was in the County's best interest to enter into the agreement on that date; and
3. Authorized the Chairman to sign the Agreement.

RMA

HAR
06/26/2018



**RESOURCE
MANAGEMENT AGENCY
COUNTY OF TULARE
AGENDA ITEM**

BOARD OF SUPERVISORS

KUYLER CROCKER
District One

PETE VANDER POEL
District Two

AMY SHUKLIAN
District Three

J. STEVEN WORTHLEY
District Four

MIKE ENNIS
District Five

AGENDA DATE: June 26, 2018

Public Hearing Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Scheduled Public Hearing w/Clerk	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Published Notice Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Advertised Published Notice	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
County Counsel Sign-Off	Yes	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Meet & Confer Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Electronic file(s) has been sent	Yes	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Budget Transfer (Aud 308) attached	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Personnel Resolution attached	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Agreements are attached and signature line for Chairman is marked with tab(s)/flag(s)	Yes	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
CONTACT PERSON: Celeste Perez PHONE: (559) 624-7010				

SUBJECT: 2017/2018 Transit Agreement with the City of Dinuba

REQUEST(S):

That the Board of Supervisors:

1. Approve an agreement with the City of Dinuba, in the amount of \$18,463 for the City to provide transit service to County of Tulare residents, retroactive from July 1, 2017 through June 30, 2018. This agreement is retroactive because of ongoing negotiations with and obtaining authorized signatures from the City. It was impractical for the board to take action before July 1, 2017 due to the time needed to process, prepare, and submit the agenda item; and
2. Find that the Board had the authority to enter into the proposed agreement as of July 1, 2017 and that it was in the County's best interest to enter into the agreement on that date; and
3. Authorize the Chairman to sign the Agreement.

SUMMARY:

The City of Dinuba operates a connection line to the City of Reedley which delivers Tulare County residents to Fresno County stops such as Reedley College, Adventist Hospital and Palm Village Retirement Home, all of which are used by Tulare County residents. With this Annual Agreement, the City of Dinuba contracts with the County to provide this service to County of Tulare residents. The County of Tulare reimburses the City of Dinuba for its respective share of transit service cost.

In fiscal year 2016/2017 an estimated 14% of Dinuba (Dial-A-Ride) trips served

SUBJECT: 2017/2018 Transit Agreement with the City of Dinuba

DATE: June 26, 2018

County residents in unincorporated areas. This represents approximately 3,400 annual riders.

The County of Tulare and the City of Dinuba share cost responsibility based on the number of riders and the distance traveled. As a result, the County's share of the City of Dinuba's cost for this service in fiscal year 2017/2018 has been estimated to be \$18,463.

Please note This agreement has been approved as to form by County Counsel. The following terms deviate substantively from the standard County boilerplate:

Mutual Indemnification - Both parties to the agreement agree to indemnify the other.

FISCAL IMPACT/FINANCING:

No Net County Cost.

The County's share of net operating cost of the transit service under this Agreement will be \$18,463. This Agreement allows Tulare County Association of Governments (TCAG) to redistribute a portion of the County's Local Transportation Fund (LTF) and or State Transit Assistance Funds (STA) to the City of Dinuba for this service.

LINKAGE TO THE COUNTY OF TULARE STRATEGIC BUSINESS PLAN:

This coordinated transit system provides quality service to County and City residents in the Dinuba Area. The Strategic Business Plan Initiatives, under the Safety and Security section, calls for improvement and maintenance of transportation infrastructure; this service addresses that initiative.

ADMINISTRATIVE SIGN-OFF:



Sherman Dix
Assistant Director, Fiscal Services



Reed Schenke, P.E.
Director

cc: County Administrative Office

Attachment(s) Attachments A – Agreement
 Attachments B – Exhibit "A" Vicinity Map

Attachment “A”

Agreement

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AGREEMENT

THIS AGREEMENT, is entered into as of this ____ day of _____, 2018, by and between the COUNTY OF TULARE, hereinafter referred to as the "County", and the CITY OF DINUBA, hereinafter referred to as the "City".

WITNESSETH:

WHEREAS, the County and the City desire to coordinate their respective public transportation systems in the Dinuba area; and

WHEREAS, there are and will continue to be, citizens of the County who can reasonably be served by a fixed-route transit system operating within the City, and there are and will continue to be, citizens of the City who can reasonably be served by the County's fixed-route transit system; and

WHEREAS, there are residents of the County that are served by Dinuba Area Transit. General Public may transfer between DART routes, or to the County at the Dinuba Transit Center. DART connects with the Fresno County at Reedley College; and

WHEREAS, the County and the City recognize the goals of providing a transportation system to the general public at a reasonable fare and that of providing coordinated public transportation service within the Dinuba area; and

WHEREAS, the County and the City desire to provide for the Joint Exercise of Powers for the purpose of providing and maintaining public transportation systems in the Dinuba area;

NOW, THEREFORE, County and City mutually agree as follows:

1. **Scope of Work.** The County and City shall each control, manage, and operate a separate transit system. The City and County shall furnish each other thirty (30) days prior written notice of any and all service level and fare level changes.

(a) **County.** The County shall provide transit service to those residents of the City desiring to use the regularly scheduled service of the County transit system. The County shall establish bus stop location(s) within the City which will interface with the City bus stop locations and facilitate system transfers. The County stop(s) shall be established at locations acceptable to the City. Approval on behalf of the City shall be given by the City Transit Manager.

(b) **City.** The City shall establish a series of bus stop locations within the unincorporated areas of the County. The City stops shall be established at locations acceptable to the County. Approval on behalf of the County shall be given by the County Director of Transportation. The City shall provide transit service to County

1 residents desiring transit service within the service area as set forth in Exhibit "A"
2 which is attached hereto and made a part hereof by this reference.

3 **2. Management-County.** The County shall manage the County transit system in an
4 appropriate manner, insuring cost effective operation, including marketing the system in a
5 professional manner and collecting fares from riders on the County transit system.

6 **3. Management-City.** The City shall manage the City transit system in an
7 appropriate manner, insuring cost effective operation, including marketing the system in a
8 professional manner and collecting fares from riders on the City transit system.

9 **4. Compensation.** The County shall compensate the City for service to County
10 residents living in the herein agreed upon service area. Compensation shall be limited to a
11 percentage of the operating costs of the City's Transit System. The term "operating cost" as
12 used in this Agreement shall be defined as all costs in the operating expense object classes
13 of the Uniform Systems of Accounts for Public Transit Operators adopted by the State
14 Controller pursuant to Public Utilities Code Section 99243.

15 Compensation for the period July 1, 2017 through June 30, 2018, will be as follows:

	<u>COMPENSATION</u>	<u>SOURCE</u>
16 County portion of cost	\$18,463	Local Transportation Fund and/or 17 State Transit Assistance Funds 18

19
20 **5. Authorization of Payment.** Local Transportation Fund and/or State Transit
21 Assistance Funds Funds will be claimed by the City on the County's behalf. The County by
22 this Agreement authorizes the Tulare County Association of Governments to transfer
23 \$18,463 of State Transit Assistance Funds, and /or Local Transportation Funds (LTF) from
24 the County's 2017/18 Apportionment to the City of Dinuba's Apportionment. The County
25 further authorizes the City to claim said \$18,463 as full payment for services under this
26 Agreement. In case of termination of this Agreement prior to June 30, 2018, the County
27 agrees to compensate the City for a proportional amount of the sum of \$18,463 based upon
28 the number of days the services were provided by the City during a 365 day period.

29 **6. Drivers.** The parties shall require that all transit drivers meet all licensing
30 requirements of the State of California.

31 **7. Indemnification-City.** City shall hold harmless, defend and indemnify County,
32 its agents, officers and employees from and against any liability, claims, actions, costs,
33 damages or losses of any kind, including death or injury to any person and/or damage to
34 property, arising out of the activities of City or its agents, officers and employees under this
35 Agreement and any claims made against County alleging civil rights violations by City
36 under Government Code section 12920 et seq. (California Fair Employment and Housing

1 Act). This indemnification specifically includes any claims that may be made against
2 County by any taxing authority asserting that an employer-employee relationship exists by
3 reason of this Agreement. This indemnification obligation shall continue beyond the term
4 of this Agreement as to any acts or omissions occurring under this Agreement or any
5 extension of this Agreement.

6 **8. Indemnification-County.** County shall hold harmless, defend and indemnify
7 City, its agents, officers and employees from and against any liability, claims, actions,
8 costs, damages or losses of any kind, including death or injury to any person and/or damage
9 to property, arising out of the activities of County or its agents, officers and employees
10 under this Agreement, and any claims made against County alleging civil rights violations
11 by City under Government Code section 12920 et seq. (California Fair Employment and
12 Housing Act). This indemnification obligation shall continue beyond the term of this
13 Agreement as to any acts or omissions occurring under this Agreement or any extension of
14 this Agreement.

15 **9. Insurance-Liability.** The City and the County shall each provide comprehensive
16 general public liability and comprehensive automotive liability insurance with single limit
17 coverage of not less than \$5,000,000 or equivalent self-insurance covering their activities
18 under this Agreement. Prior to commencing operations, each party shall file with the Clerk
19 of the other party certificates of insurance evidencing the coverage required herein and
20 naming the other party, its officers, agents and employees as additional insureds. Such
21 certificates shall state that the named additional insureds are not responsible for the
22 payment of any premium or assessment and shall provide that in the event of a cancellation
23 or material change of policy, the insurer shall give the named additional insureds no less
24 than thirty (30) days advance written notice of such cancellation or change. Upon request,
25 each party shall provide the other with a complete copy of the insurance policy or policies
26 or evidence and terms of self-insurance as required herein.

27 The parties agree, during the term of the Agreement, to maintain at their own expense
28 (or require of their independent contractors) all necessary insurance for their respective
29 officers, employees, and agents, including but not limited to workers' compensation,
30 disability and unemployment insurance in accordance with state statutory requirements and
31 to provide certificates of such insurance or other evidence of compliance to the other party
32 upon request. The insurance, and evidence thereof, required by this Agreement may be
33 provided either directly by the parties or, if a party contracts with an independent
34 contractor/operator to provide the services required by this Agreement, by the operator of
35 that party's system as deemed appropriate by such party.

1 10. **Term of Agreement.** This Agreement shall become effective July 1, 2017 and
2 shall continue in full force and effect until June 30, 2018 unless terminated earlier, as
3 herein provided.

4 11. **Termination.** The right to terminate this Agreement under this provision may be
5 exercised without prejudice to any other right or remedy to which the terminating party may
6 be entitled at law or under this Agreement.

7 (a) Without Cause. Either party shall have the right to terminate this
8 Agreement without cause by giving the other party SIXTY (60) days prior written
9 notice of its intention to terminate pursuant to this provision, specifying the date of
10 termination.

11 (b) With Cause. This Agreement may be terminated by either party should the
12 other party:

13 (i) be adjudged a bankrupt, or

14 (ii) become insolvent or have a receiver appointed, or

15 (iii) make a general assignment for the benefit of creditors, or

16 (iv) suffer any judgment which remains unsatisfied for 30 days, and which
17 would substantively impair the ability of the judgment debtor to perform under
18 this Agreement, or

19 (v) materially breach this Agreement.

20 For any of the occurrences except item (v), termination may be effected upon
21 written notice by the terminating party specifying the date of the termination. Upon a
22 material breach, the Agreement may be terminated following the failure of the
23 defaulting party to remedy the breach to the satisfaction of the non-defaulting party
24 within FIVE (5) days of written notice specifying the breach. If the breach is not
25 remedied within that FIVE (5) day period, the non-defaulting party may terminate the
26 Agreement on further written notice specifying the date of termination.

27 If the nature of the breach is such that it cannot be cured within a FIVE (5) day
28 period, the defaulting party may, submit a written proposal within that period which
29 sets forth a specific means to resolve the default. If the non-defaulting party consents
30 to that proposal in writing, which consent shall not be unreasonably withheld, the
31 defaulting party shall immediately embark on its plan to cure. If the default is not
32 cured within the time agreed, the non-defaulting party may terminate upon written
33 notice specifying the date of termination.

34 (c) Effects of Termination. Termination of this Agreement shall not terminate
35 any obligations to indemnify, to maintain and make available any records pertaining

1 to the Agreement, to cooperate with any audit, to be subject to offset, or to make any
2 reports of pre-termination contract activities.

3 **12. Notices.** Any notices to be given shall be written and served either by personal
4 delivery or by first class mail, postage prepaid and addressed as follows:

5 County: Director of Transportation
6 Resource Management Agency
7 5961 S. Mooney Blvd.
8 Visalia, California 93277
9

10 City: Transit Manager
11 City of Dinuba
12 405 E. El Monte Way
13 Dinuba, California 93618

14 **13. Integration.** This Agreement constitutes the sole and only Agreement between
15 the parties hereto as to the services to be provided hereunder. Any prior agreements,
16 promises, negotiations or representations as to such services not expressly referred to herein
17 are of no force and effect.

18 **14. Modification.** The City and County shall furnish each other thirty (30) days prior
19 written notice of any and all recommended service level and fare level changes. The City
20 shall request and receive approval from the County Director of Transportation prior to any
21 changes in service levels or fare levels in unincorporated areas of the service area. Except
22 for said changes, this Agreement shall be modified or amended only with the prior written
23 consent of both parties.

24 **15. Assignment.** Neither party shall assign or transfer any of the rights or privileges
25 or any parts thereof of this Agreement without the other party's prior written consent.

26 **16. Records.** Each party agrees to maintain all books, records, documents, and other
27 evidence pertaining to this Agreement, any disputes surrounding the subject matter of this
28 Agreement, and any other related circumstances in accordance with generally accepted
29 accounting principles and practices. Each party shall allow the other party's agents or
30 representatives access to such records for inspection, audit, and copying during normal
31 business hours. Each party shall provide further facilities for such access and inspection.

32 **17. Surveys.** Either the City or the County may conduct periodic ridership surveys.
33 Said surveys shall not interfere with the operation of the system.

34 **18. Legal Operation.** City and County each shall carry out its obligations under this
35 Agreement in full compliance with all applicable federal, state and local laws, ordinances,
36 rules and regulations.

1 **19. Construction.** This Agreement reflects the contributions of both parties and
2 accordingly the provisions of Civil Code section 1654 shall not apply to address and
3 interpret any uncertainty.

4 **20. Governing Law.** This Agreement shall be interpreted and governed under the
5 laws of the State of California without reference to California conflicts of law principles.
6 Any litigation arising out of this Agreement shall be brought in Tulare County California.
7 City waives the removal provisions of California Code of Civil Procedure Section 394.

8 **21. Conflict with Laws or Regulations/Severability.** This Agreement is subject to
9 all applicable laws and regulations. If any provision of this Agreement is found by any
10 court or other legal authority, or is agreed by the parties, to be in conflict with any code or
11 regulation governing its subject, the conflicting provision shall be considered null and void.
12 The remainder of the Agreement shall continue in full force and effect.

13 **22. Headings.** Section headings are provided for organizational purposes only and do
14 not in any manner affect the scope, meaning or intent of the provisions under the headings.

15 **23. No Third Party Beneficiaries.** Unless specifically set forth, the parties to this
16 Agreement do not intend to provide any other party with any benefit or enforceable legal or
17 equitable right or remedy.

18 **24. Waivers.** The failure of either party to insist on strict compliance with any
19 provision of this Agreement shall not be considered a waiver of any right to do so, whether
20 for that breach or any subsequent breach. The acceptance by either party of either
21 performance or payment shall not be considered to be a waiver of any preceding breach of
22 the Agreement by the other party.

23 **25. Exhibits and Recitals.** The Recitals and the Exhibits to this Agreement are fully
24 incorporated into and are integral parts of this Agreement.

25
26 **26. Further Assurances.** Each party agrees to execute any additional documents and
27 to perform any further acts which may be reasonably required to effect the purposes of this
28 Agreement.

29 **27. Assurances of Non-Discrimination.** City and County expressly agree not to
30 discriminate in employment or the provision of services on the basis of any characteristic or
31 condition upon which discrimination is prohibited by state or federal law or regulation.
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36 REMAINDER OF THIS PAGE LEFT BLANK INTENTIONALLY


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IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date first above written.

COUNTY OF TULARE

By _____
Chairman, Board of Supervisors
"COUNTY"

ATTEST:
County Administrative Officer/
Clerk of the Board of Supervisors.

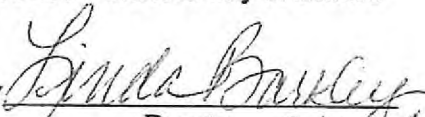
APPROVED AS TO FORM:
COUNTY COUNSEL
By  2018473
5/30/18
Deputy

By _____
Deputy

CITY OF DINUBA

By 
Title: City Manager
"CITY"

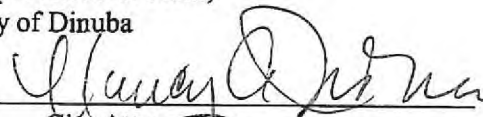
ATTEST: Clerk of City of Dinuba

By 
~~Deputy~~ City Clerk

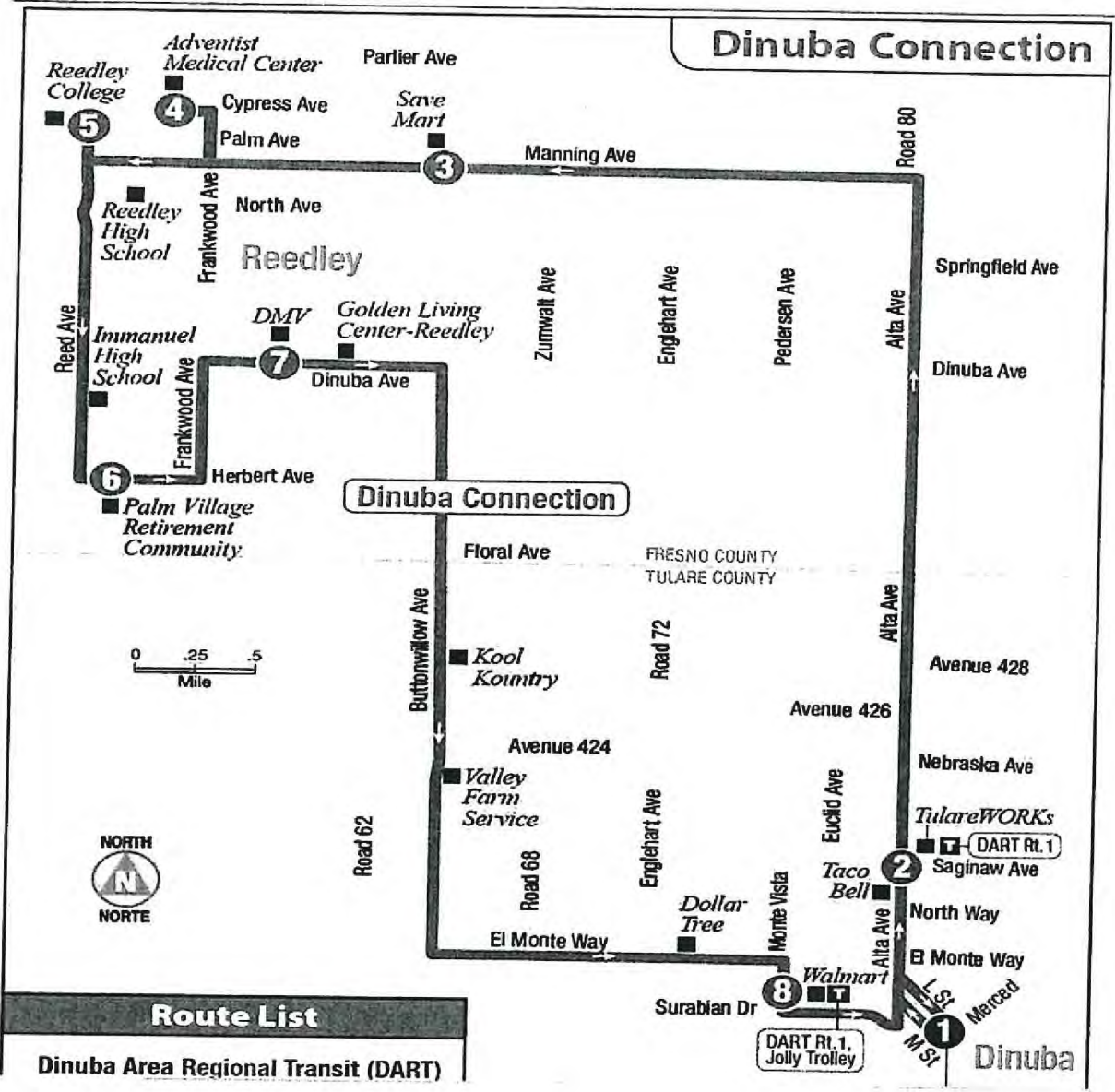
Approved as to Form,
County Counsel

By _____
Deputy

Approved as to Form,
City of Dinuba

By 
City Attorney

Dinuba Connection



Route List	
Dinuba Area Regional Transit (DART)	

Attachment “B”

Exhibit “A” Vicinity Map

