

STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

INTERLOCAL AGREEMENT
FOR PAVING AND DRAINAGE IMPROVEMENTS BY AND BETWEEN
FORT BEND COUNTY, TEXAS AND
FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 190

This INTERLOCAL AGREEMENT FOR PAVING AND DRAINAGE IMPROVEMENTS (the "Agreement") is entered into, pursuant to the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code, by and between Fort Bend County, Texas (the "County"), a body corporate and politic under the laws of the State of Texas, acting by and through its Commissioners Court, and Fort Bend County Municipal Utility District No. 190 (the "District"), a conservation and reclamation district, acting by and through its Board of Directors. The County and the District are referred to collectively as the "Parties."

RECITALS

WHEREAS, the County is a local government as defined by the Act, and as such is lawfully permitted to enter into an Interlocal Agreement; and

WHEREAS, the District is a local government as defined by the Act, and as such is lawfully permitted to enter into an Interlocal Agreement; and

WHEREAS, the Parties believe it is in their best interest to enter into this Agreement to facilitate the provision of certain governmental functions to the citizens of Fort Bend County; and

WHEREAS, the Commissioners Court of Fort Bend County finds that the paving and drainage improvements to Bellaire Boulevard under Mobility Bond Project No. 17203 (the "Project"), as shown on the Preliminary Cost Estimate attached as Exhibit "A," contemplated in this Agreement serves a County purpose; and

WHEREAS, the District is interested in participating in the Project by providing initial funding, subject to terms of reimbursement as described herein; and

WHEREAS, the County and the District acknowledge and agree that the District will design and administer the development and construction of the Project, at the County's cost; and

WHEREAS, the District and the County agree to participate in this Project according to the terms of this Agreement and confirm that each has funds available for their respective obligations described herein; and

WHEREAS, the County and the District acknowledge and agree that the County will accept the Project for maintenance upon the District successfully completing the County's acceptance requirements; and

WHEREAS, the Parties agree that, in performing the governmental functions contemplated in this Agreement or in paying for the performance of those governmental functions, each party will make that performance or those payments from current revenues legally available to that party; and

WHEREAS, the governing bodies of the District and County have authorized this Agreement.

AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual promises, covenants, obligations and benefits of this Agreement, the County and District contract and agree as follows:

I.

INCORPORATION OF RECITALS

The representations, covenants and recitations set forth in the foregoing recitals of this Agreement are true and correct and are hereby incorporated into the body of this Agreement and adopted as findings of the County and the District.

II.

SCOPE OF THE PROJECT

The scope of the Project for purposes of this Agreement consists of the design and construction of the north half of Bellaire Boulevard from Westmoor Drive to the Lakeview Retreat Boundary, and from Harlem Road to Twilight Pond Lane, as generally shown in Preliminary Cost Estimates attached as Exhibit A. The purpose of this Agreement is to outline the funding obligations related to the Project.

III.

COUNTY'S RIGHTS AND RESPONSIBILITIES

A. During the work on the Project, the County shall have the right to review all documents, maps, plats, records, photographs, reports and drawings affecting the construction and to inspect the work in progress, provided however, that in conducting such inspections, the County shall not interfere with the work in progress. Any deficiencies brought to the attention of the District by the County shall be promptly addressed by the District.

B. The County shall have the right to participate in the final inspection of the Project. At that time, any deficiencies noted by the County shall be promptly addressed by the District.

C. The County's sole obligation under this Agreement is to provide the funding for costs of the Project to the District as specified below:

Item Description	Split	FBC Amount
1. BELLAIRE BOULEVARD PAVING - TWILIGHT POND LN TO LONG POINT SLOUGH (4 LANES) AND LONG POINT SLOUGH TO HARLEM (SOUTH 2 LANES)	0% FBC, 100% District	\$ -0
2. STORM SEWER - TWILIGHT POND LN TO LONG POINT SLOUGH:	0% FBC, 100% District	\$ -0
3. BELLAIRE BOULEVARD PAVING - HARLEM TO LONG POINT SLOUGH (NORTH 2 LANES):	100% FBC, 0% District	\$185,000
4. BELLAIRE BLVD & HARLEM RD INTERSECTION IMPROVEMENTS:	100% FBC, 0% District	\$289,000
5. DETENTION AND STORM SEWER - HARLEM RD TO LONG POINT SLOUGH:	50% FBC, 50% District	\$153,000
6. LONG POINT DRAINAGE CROSSING:	50% FBC, 50% District	\$624,000
7. BELLAIRE BLVD PAVING - WESTMOOR DRIVE TO EASTERN BOUNDARY OF LAKEVIEW RETREAT	100% FBC, 0% DISTRICT	\$100,112
MISCELLANEOUS:	44.24% FBC, 55.76% District	\$69,000
Contingencies (2)	44.24% FBC, 55.76% District	\$132,000
Engineering(3)	44.24% FBC, 55.76% District	\$198,000

D. The County is not obligated to expend any further funds above \$1,750,112 on the Project.

E. Should the District fail to initiate Project design or construction by the dates provided below, or elect to forego construction for any reason, the County shall have, within its sole discretion to exercise, the right to re-allocate its contribution as it determines appropriate.

IV. DISTRICT'S RIGHTS AND RESPONSIBILITIES

A. The District is responsible for managing the design and overseeing the construction and completion of the Project and complying with the applicable state and

federal laws. The District will competitively bid and administer the contract for construction of the Project in accordance with good engineering standards and in accordance with all applicable rules, regulations, and requirements. Administration of the contract includes the responsibility for construction contract administration and monitoring and for issuance of any change orders, supplemental agreements, amendments, or additional work orders, which may become necessary subsequent to the award of the construction contract

B. The District agrees to initiate design of the Project no later than November 30, 2021.

C. The District agrees to initiate construction of the Project no later than November 30, 2021.

D. In the event the District fails to initiate Project design or construction within the time prescribed above, determines the Project lacks feasibility, or for any other reason elects to forego its construction, the District shall provide written notice to the County of such failure or its decision to forego construction. This Agreement shall automatically terminate upon the District's election to forego construction of the Project. However, in the case of the District's delay in initiating Project design or construction, the County shall have the option to proceed with its obligations under this Agreement, notwithstanding such delay. Upon an election to terminate this Agreement under any circumstances, the District agrees to refund all amounts provided by County, if any, upon thirty (30) days of said notice to the County.

E. The District will request inspection of the north half of Bellaire Boulevard from Westmoor Drive to the eastern boundary line of Lakeview Retreat upon execution of the Agreement, and the County shall fund its applicable share of the costs of the portion of the Project within thirty (30) calendar days of such portion of the Project meeting the County's acceptance requirements.

F. The District shall submit reports and requests for payment to the County on a monthly basis describing in sufficient detail the progress of the Project and showing the amounts due for work performed on or before the tenth (10th) day of each calendar month during the progress of the Project. Reports and invoices received by the District from contractors detailing the progress of the Project shall suffice for the requirements of this section, so long as the District has reviewed such reports and invoices and confirmed accuracy of the contractor's report and invoices.

G. Within thirty (30) calendar days after receipt of each uncontested request for payment together with the supporting reports required under this Agreement, the County shall advance to the District the amount of its applicable share of the costs of the Project reflected in the request for payment.

H. Upon completion of the entire Project, the District will furnish the County with a full accounting of the funds actually expended on the Project and an electronic copy of the record drawings showing the Project as constructed. Within thirty (30) calendar days

of the County's receipt of the full accounting, either (1), the County shall pay the District the remaining amount of its applicable share of the costs of the Project, as defined in Section III., or (2) the District shall return any amount received from the County in excess of the County's applicable share of the Project. The County Auditor may review the District's records regarding this Project.

V.
MAINTENANCE

Upon the District successfully completing the County's acceptance requirements, the County will accept the Project, operate and maintain the Project, in accordance with the requirements of all applicable laws, rules, and regulations.

VI.
LIABILITY

The Parties are each governmental entities entitled to the immunities and defenses available to governmental units under state and federal law, except as may be waived by the Texas Tort Claims Act, Chapter 101 of the Texas Civil Practice and Remedies Code, or other applicable law, and each may take all such actions as necessary to avail each of the maximum protection legally available in order to minimize or eliminate any potential loss or liability with respect to the construction of the Project. No Party hereto waives or relinquishes any immunity or defense on behalf of itself, its officers, employees or agents as a result of its execution of this Agreement and performance of the covenants contained herein.

VII.
INSURANCE REQUIREMENTS

District agrees that it will require Contractor's insurance policies name County as well as District as additional insureds on all policies except for Workers' Compensation and Professional Liability. Any such insurance policies shall include at least the following minimum coverage:

A. Worker's Compensation in the amount required by law. The policy shall include the All States Endorsement.

B. Comprehensive General Liability Insurance including contractual liability insurance, \$1,000,000 per occurrence, \$2,000,000 aggregate (defense costs excluded from face amount of policy).

C. Comprehensive Automobile Liability Insurance, including owned, non-owned and hired vehicles used for the Project, with bodily injury and property damage with a combined limit of not less than \$1,000,000 each occurrence.

D. The District may require insurance in excess of the amount of coverage set out above, as it deems necessary, in such cases County shall remain an additional insured.

The District will provide County with proof of insurance within thirty (30) days of the District's award of the contract for construction of the Project.

VIII.
ASSIGNMENT

No party hereto shall make, in whole or in part, any assignment of this Agreement or any obligation hereunder without the prior written consent of the other party.

IX.
NO THIRD PARTY BENEFICIARIES

This Agreement shall be for the sole and exclusive benefit of the District and the County and shall not be construed to confer any benefit or right upon any other party, including particularly any resident of the District or the County. The parties do not intend that any specific third party obtain a right by virtue of the execution or performance of this Agreement.

X.
NOTICES

All notices and communications under this Agreement shall be mailed by certified mail, return receipt request, or delivered to the following addresses:

If to Fort Bend County:

Fort Bend County
Attn: County Judge
401 Jackson Street, First Floor
Richmond, Texas 77469

With a copy to:

Fort Bend County Engineering Department
Attn: County Engineer
301 Jackson Street
Richmond, Texas 77469

If to the District:

Fort Bend County Municipal Utility District No. 190
c/o Allen Boone Humphries Robinson LLP
Attn: Susan Edwards
3200 Southwest Freeway, Suite 2600
Houston, Texas 77027

With a copy to:

Jones and Carter, Inc.
Attn: Sean Burch
6330 West Loop South, Suite 150
Bellaire, Texas 77401

XI.
ENTIRE AGREEMENT

This Agreement contains the entire agreement between the Parties relating to the rights granted and the obligations assumed. Any modifications concerning this instrument shall be of no force or effect, unless a subsequent modification in writing is signed by all parties hereto.

XII.
SEVERABILITY

The provisions of this Agreement are severable, and if any word, phrase, clause, sentence, paragraph, section, or other part of this Agreement or the application thereof to any other person or circumstance shall ever be held by any court of competent jurisdiction to contravene or be invalid under the constitution or laws of the State of Texas for any reason, that contravention or invalidity shall not invalidate the entire Agreement. Instead, this Agreement shall be construed as if it did not contain the particular provision or provisions held to be invalid, the rights and obligations of the Parties shall be enforced accordingly, and this Agreement shall remain in full force and effect, as construed. The remainder of this Agreement and the application of such word, phrase, clause, sentence, paragraph, section, or other part of this Agreement to the other parties or circumstances shall not be affected thereby.

XIII.
SUCCESSORS AND ASSIGNS

This Agreement shall apply to and be binding upon the Parties hereto and their respective officers, directors, successors, and assigns. This Agreement and any of the rights obtained hereunder are not assignable by any party hereto without the express written consent of the other party, which consent shall not be unreasonably withheld, conditioned or delayed.

XIV.
AUTHORIZATION

Each party represents that (i) execution and delivery of this Agreement by it has been duly authorized by its governing body or other persons from whom such party is legally bound to obtain authorization; (ii) that the consummation of the contemplated transactions will not result in a breach or violation of, or a default under, any agreement by which it or any of its properties is bound, or by any statute, rule, regulation, order, or other law to which it is subject; and (iii) this Agreement is a binding and enforceable agreement on its part.

XV.
APPLICABLE LAW

This Agreement shall be governed and construed in accordance with the laws of the State of Texas. Venue shall be in Fort Bend County.

XVI.
TERM

This Agreement shall become effective on the date executed by the final party, and remain in effect until (i.) September 30, 2023, (ii.) the Project is complete, or (iii.) the Agreement is terminated otherwise as provided herein; and the obligations under Sections III. and IV. of this Agreement are fulfilled, whichever is soonest.

FORT BEND COUNTY:

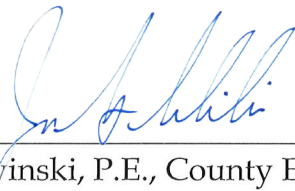
KP George, County Judge

Date

Attest:

Laura Richard, County Clerk

Approved:



J. Stacy Slawinski, P.E., County Engineer

Approved as to legal form:

Marcus D. Spencer, First Assistant County Attorney

FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 190



President, Board of Directors

07-27-2020
Date

Attest:



Secretary, Board of Directors
VICE PRESIDENT
(SEAL)



AUDITOR'S CERTIFICATE

I hereby certify that funds are available in the amount of \$ _____ to accomplish and pay the obligation of Fort Bend County under this contract.

Robert Ed Sturdivant, County Auditor

EXHIBIT A



CONSTRUCTION COST
PAVING & DRAINAGE FACILITIES
BELLAIRE BOULEVARD (NORTH HALF) - WESTMOOR DRIVE TO LAKEVIEW RETREAT BOUNDARY
 December 13, 2019

<u>Item No.</u>	<u>Description</u>	<u>Unit</u>	<u>Quantity</u>	<u>Unit Price</u>	<u>Cost</u>
PAVING ⁽¹⁾:					
54.	Manipulation of Subgrade for Concrete Pavement.	S.Y.	1,420.00	\$ 1.00	\$ 1,420.00
55.	Grading and Compaction of Subgrade for concrete pavement.	S.Y.	1,420.00	2.00	2,840.00
56.	Lime for Subgrade @ (50 lbs./SY) as directed by Engineer.	Ton	35.5	185.00	6,567.50
60.	8-inch Reinforced Concrete Pavement, complete in place.	S.Y.	1,245.00	43.00	53,535.00
61.	6-inch concrete curb, complete in place.	L.F.	873.00	2.75	2,400.75
75.	R4-7 Keep Right Sign, including post, complete in place.	Ea.	3	800.00	2,400.00
173.	Clearing of Trees in Median of Bellaire	L.S.	1	12,960.00	12,960.00
174.	Saw-Cut, Removal of existing pavement/curb, and install new header at tie-in to existing Bellaire Blvd	Ea.	1	4,180.00	<u>4,180.00</u>
				Paving Subtotal:	\$ 86,303.25
MISCELLANEOUS:					
1.	Engineering ⁽²⁾	L.S.	1	\$ 10,356.39	\$ 10,356.39
2.	Materials and Lab Testing ⁽³⁾	L.S.	1	1,726.07	1,726.07
3.	SWPPP ⁽⁴⁾	L.S.	1	1,726.07	<u>1,726.07</u>
				Miscellaneous Subtotal:	\$ <u>13,809</u>
				PROJECT TOTAL:	\$ 100,112

Notes:

- (1) This construction cost was prepared using received unit prices per the provided change orders and Construction Progress Payments. This estimate represents my best judgment as a design professional familiar with the construction industry. Jones & Carter, Inc. has no control over the cost of labor, materials, or equipment; over the Contractor's methods of determining unit prices; or market conditions.
- (2) Engineering is estimated at 12% of construction cost.
- (3) Materials & Lab Testing is estimated at 2% of construction cost.
- (4) Storm Water Pollution Prevention Plan (SWPPP) is estimated at 2% of construction cost.



PRELIMINARY CONSTRUCTION COST ESTIMATE
 BELLAIRE BOULEVARD - HARLEM RD TO TWIGHLIGHT POND LANE
 PAVING & DRAINAGE FACILITIES
 May 7, 2020

Description	Unit	Quantity	Unit Price	Cost	District's Share	Fort Bend County's Share
A. BELLAIRE BOULEVARD PAVING - TWILIGHT POND LN TO LONG POINT SLOUGH (4 LANES) AND LONG POINT SLOUGH TO HARLEM (SOUTH 2 LANES):						
1. Roadway Excavation	C.Y.	7,500	\$ 3.00	\$ 23,000	\$ 23,000	\$ -
2. Spread & Compact Roadway Excavation	C.Y.	7,500	3.00	23,000	23,000	-
3. Grading and Compaction of Subgrade	S.Y.	11,000	2.50	28,000	28,000	-
4. Lime for Subgrade (50 lbs./SY)	Ton	275	190.00	52,000	52,000	-
5. Fly Ash for Subgrade (35 lbs./SY)	Ton	193	90.00	17,000	17,000	-
6. 8-inch Reinforced Concrete Pavement	S.Y.	9,425	48.00	452,000	452,000	-
7. Concrete Curb	L.F.	6,746	3.00	20,000	20,000	-
8. Striping and Signage	L.S.	1	15,000	15,000	15,000	-
9. Removal & Disposal of Type III Barricades	Ea.	4	1,200	5,000	5,000	-
10. Wheelchair Ramps	Ea.	8	1,500	12,000	12,000	-
				Paving Subtotal: \$ 647,000	\$ 647,000	\$ -
B. STORM SEWER - TWILIGHT POND LN TO LONG POINT SLOUGH:						
1. 24-Inch RCP	L.F.	240	\$ 65.00	\$ 16,000	\$ 16,000	\$ -
2. 30-Inch RCP	L.F.	483	75.00	36,000	36,000	-
3. 36-Inch RCP	L.F.	454	100.00	45,000	45,000	-
4. 42-Inch RCP	L.F.	166	138.00	23,000	23,000	-
5. Type "C" Manholes (24"-42")	Ea.	5	3,000	15,000	15,000	-
6. C-1 Inlets	Ea.	6	3,000	18,000	18,000	-
7. Tie-in to Existing Storm Sewer	Ea.	1	1,300	1,000	1,000	-
				Storm Sewer Subtotal: \$ 154,000	\$ 154,000	\$ -
C. BELLAIRE BOULEVARD PAVING - HARLEM TO LONG POINT SLOUGH (NORTH 2 LANES):						
1. Roadway Excavation	C.Y.	1,919	\$ 3.00	\$ 6,000	\$ -	\$ 6,000
2. Spread & Compact Roadway Excavation	C.Y.	1,919	3.00	6,000	-	6,000
3. Grading and Compaction of Subgrade	S.Y.	2,959	2.50	7,000	-	7,000
4. Lime for Subgrade (50 lbs./SY)	Ton	74	190.00	14,000	-	14,000
5. Fly Ash for Subgrade (35 lbs./SY)	Ton	57	90.00	5,000	-	5,000
6. 8-inch Reinforced Concrete Pavement	S.Y.	2,779	48.00	133,000	-	133,000
7. Concrete Curb	L.F.	1,465	3.00	4,000	-	4,000
8. Striping and Signage	L.S.	1	10,000	10,000	-	10,000
				Paving Subtotal: \$ 185,000	\$ -	\$ 185,000
D. BELLAIRE BLVD & HARLEM RD INTERSECTION IMPROVEMENTS:						
1. Remove Exist Asphalt	C.Y.	2,000	\$ 10.00	\$ 20,000	\$ -	\$ 20,000
2. Roadway Excavation	C.Y.	500	3.00	2,000	-	2,000
3. Spread & Compact Roadway Excavation	C.Y.	500	3.00	2,000	-	2,000
4. Grading and Compaction of Subgrade	S.Y.	3,000	2.50	8,000	-	8,000
4. Lime for Subgrade (50 lbs./SY)	Ton	75	190.00	14,000	-	14,000
5. Fly Ash for Subgrade (35 lbs./SY)	Ton	53	90.00	5,000	-	5,000
6. 8-inch Reinforced Concrete Pavement	S.Y.	1,000	48.00	48,000	-	48,000
7. Concrete Curb	L.F.	200	3.00	1,000	-	1,000
8. Striping and Signage	L.S.	1	5,000	5,000	-	5,000
9. 8-inch Black Base	Ton	880	95.00	84,000	-	84,000
10. 3-inch HMA	Ton	330	110.00	36,000	-	36,000
11. Traffic Control	L.S.	1	15,000	15,000	-	15,000
12. Wheelchair ramps	Ea.	8	1,500	12,000	-	12,000
13. 24-Inch RCP	L.F.	240	65.00	16,000	-	16,000
14. C-1 Inlets	Ea.	4	3,000	12,000	-	12,000
15. Type "C" Manholes (24"-42")	L.F.	3	3,000	9,000	-	9,000
				Intersection Subtotal: \$ 289,000	\$ -	\$ 289,000



PRELIMINARY CONSTRUCTION COST ESTIMATE
 BELLAIRE BOULEVARD - HARLEM RD TO TWIGLIGHT POND LANE
 PAVING & DRAINAGE FACILITIES
 May 7, 2020

Description	Unit	Quantity	Unit Price	Cost	District's Share	Fort Bend County's Share
E. DETENTION AND STORM SEWER - HARLEM RD TO LONG POINT SLOUGH:						
1. 24-Inch RCP	L.F.	80	\$ 65.00	\$ 5,000	\$ 2,500	\$ 2,500
2. 36-Inch RCP	L.F.	687	100.00	69,000	34,500	34,500
3. 48-Inch RCP	L.F.	140	138.00	19,000	9,500	9,500
4. Type "C" Manholes (24"-42")	Ea.	4	3,000	12,000	6,000	6,000
5. Type "C" Manholes (48"-60")	Ea.	1	3,500	4,000	2,000	2,000
6. C-1 Inlets	Ea.	2	3,000	6,000	3,000	3,000
7. Detention Excavation	C.Y.	10,000	4.00	40,000	20,000	20,000
8. Haul, Spread & Compact Excavation	C.Y.	10,000	4.00	40,000	20,000	20,000
9. 5-Inch Slope Paving	S.Y.	400	80.00	32,000	16,000	16,000
10. Outfall	L.S.	1	15,000	15,000	7,500	7,500
11. Remove & Replace Exist Fencrete Fence	L.F.	320	200.00	64,000	32,000	32,000
Detention & Storm Sewer Subtotal:				\$ 306,000	\$ 153,000	\$ 153,000
F. LONG POINT DRAINAGE CROSSING:						
1. Conspan O1163 - 64' span x 12.9' rise	L.S.	1	626,000	\$ 626,000	\$ 313,000	\$ 313,000
2. Wingwalls/Headwalls	L.S.	1	105,000	105,000	52,500	52,500
3. Concrete Footings	L.S.	1	468,000	468,000	234,000	234,000
4. 18-Inch Rip Rap	S.Y.	400	120.00	48,000	24,000	24,000
Long Point Drainage Crossing Subtotal:				\$ 1,247,000	\$ 624,000	\$ 624,000
A-F Subtotal:				\$ 2,828,000	\$ 1,578,000	\$ 1,251,000
MISCELLANEOUS:					55.80%	44.24%
1. Move-in, Bonds & Insurance	L.S.	1	\$ 90,000	\$ 90,000	\$ 50,219	\$ 39,813
2. Construction Staking	L.S.	1	40,000	40,000	22,320	17,694
3. SWPPP	L.S.	1	25,000	25,000	13,950	11,059
Miscellaneous Subtotal:				\$ 155,000	\$ 86,000	\$ 69,000
Construction Subtotal				\$ 2,983,000	\$ 1,664,000	\$ 1,320,000
Contingencies⁽²⁾				298,000	166,000	132,000
Engineering⁽³⁾				447,000	250,000	198,000
PROJECT TOTAL:				\$ 3,728,000	\$ 2,080,000	\$ 1,650,000

This Document is Released for the Purpose of
 General Financial Planning
 Under the Authority of:
 Engineer: Sean P. Burch, P.E.
 License No.: 114201
 It is Preliminary in Nature and not to be Used for
 Feasibility of Land Purchases, Bond Applications, Loans
 or Grants.

Notes:

- (1) This estimate is preliminary in nature and was prepared using preliminary one line drawings and average unit bid prices. This estimate represents my best judgment as a design professional familiar with the construction industry. Jones & Carter, Inc. has no control over the cost of labor, materials, or equipment; over the Contractor's methods of determining bid prices; or over competitive bidding or market conditions. Accordingly, we cannot and do not guarantee that new bids will not vary from this estimate.
- (2) Contingencies include a 10% cost for additional, unseen, and future costs from time of proposal.
- (3) Engineering is estimated at 15% for estimating purposes only.