



## Resolution No. R2019-21

### OMF East TOD property exchange agreement, surplus, and development strategy

Meeting:	Date:	Type of action:	Staff contact:
Executive Committee Board	07/18/2019 07/25/2019	Recommend to Board Final action	Don Billen, Executive Director, PEPD <b>Thatcher Imboden, TOD Manager</b> <b>Dustin Akers, Sr. TOD Project Manager</b>

### Proposed action

(1) Approves the key business terms of a Property Exchange Agreement between the City of Bellevue and Sound Transit; (2) approves the chief executive officer's declaration that certain property adjacent to the Operations and Maintenance Facility East is surplus and available for disposition or redevelopment upon completion of construction, (3) declares the TOD Property as suitable for development as housing; (4) authorizes staff to offer the TOD Property first to qualified entities to create a mixed-use, mixed-income project outcome, and (5) authorizes staff to offer property within the TOD Site at a discounted price to facilitate affordable housing outcomes.

### Key features summary

- This set of five (5) proposed actions advances the development of transit-oriented development (TOD) on approximately 6.88 acres of property (TOD Property or TOD Site) adjacent to the Operations and Maintenance Facility East (OMF East) in the Spring District/120th Station area. The TOD Site is shown on Exhibit A.
- The actions are consistent with agreements between Sound Transit and the City of Bellevue that contained certain TOD-related goals (TOD Goals) and processes for OMF East, including the Amended and Restated Umbrella Memorandum of Understanding (MOU) dated May 6, 2015 and the Implementation Agreement Pursuant to Umbrella Memorandum of Understanding for East Link Project dated August 11, 2016 (Implementation Agreement).
- Action 1 approves the key business terms of a Property Exchange Agreement between Sound Transit and the City of Bellevue that was contemplated in the MOU and that facilitates TOD at the OMF East site. Under the Agreement, the City of Bellevue will transfer the approximately 1.08 acre spur property (Spur Property) to Sound Transit at no cost in exchange for Sound Transit's transfer to Bellevue at no cost the approximately 0.96 acre future frontage property (Frontage Property) owned by Sound Transit along 120th Street that will contain landscaping, stormwater facilities, and a multi-use trail. Both properties are depicted in Exhibit A. In addition, the Property Exchange Agreement contemplates certain affordable housing outcomes to be performed on the Spur Property or a similar property within the TOD development within four (4) years of transfer, and that the Spur Property or a similar property within the TOD development will be transferred at no cost to an affordable housing developer. If such affordable housing project has not commenced within four (4) years (with a one-year extension option), the City of Bellevue reserves reversionary rights to the Spur Property or a similar property as described in the Property Exchange Agreement.

- Action 2 approves the chief executive officer's (the "CEO") declaration that the property shown in Exhibit A, the TOD Site and the Frontage Property, is no longer needed for a transit purpose and can be made available for joint development or disposition upon completion of OMF East construction. The fair market value of the TOD Site is approximately \$36 million. In accordance with Sound Transit's Real Property Excess, Surplus, and Disposition Policy, a property can be declared surplus when it is determined by the chief executive officer (CEO) that it is no longer needed for present or future transit purposes. If the fair market value exceeds \$5,000,000, Board approval of the declaration is required.
- Action 3 declares the TOD Site suitable for development as housing.
- Action 4 directs staff to offer the TOD Site first to qualified entities (local governments, housing authorities, and nonprofit developers) for development of affordable housing as defined in RCW 81.112.350. It is anticipated that qualified entities may need to partner with for-profit developers to achieve the mixed-use, mixed-income goals for the TOD Site.
- Action 5 authorizes staff to offer the TOD Property at reduced or no cost to qualified entities to achieve the long-term affordable housing components of the TOD Goals.

## **Background**

### Property and TOD

The TOD Property is approximately 6.88 acres of land directly adjacent to the OMF East project and located within the Spring District/120th Street Station area. A Master Development Plan (MDP) for both the OMF East and the TOD Property was approved by the City of Bellevue. The MDP is entitled for over 1.1 million square feet of mixed-use, mixed-income development comprised of office, housing, and retail with supporting infrastructure and public open space.

The MOU included a goal of enabling potential development of TOD on property that is required for construction of the OMF East but which after construction is sufficiently complete, is expected to become surplus to Sound Transit to the extent that it is no longer necessary to support construction or operation of the OMF East. The MOU committed the agency to integrate and advance planning for TOD concurrent with the OMF East project design with the goal of ensuring timely development concurrent with, or as close in time as practicable with, commencement of East Link operations.

The Implementation Agreement provided guidance on advancing TOD outcomes in the design and development of the OMF East by weighing the optimization of potential TOD outcomes as part of the OMF East design build Request for Proposals (RFP) response evaluation and selection process. Further, it provided opportunities for the City to participate in OMF East and TOD procurements; ensured development goals are consistent with City-approved planning principles for Bel-Red; identified a collaborative design process; and established a commitment to submitting the MDP for the entire OMF East site.

The approved MDP depicts a development scenario that includes six buildings or pad sites each sized at approximately one acre, three of which are designated for office and three for housing. The mix of uses should be supportive of developing an active street level and incorporating publicly accessible open space, as well as prioritizing sustainability measures including meeting approved building standards and implementing TOD best practices. The vision of a mixed-use, mixed-income TOD is supported by TOD Goals collaboratively developed with the City of Bellevue and supported by guiding documents including the Bel-Red Subarea Plan, City of Bellevue Affordable Housing Strategy, the MOU, Implementation Agreement and MDP.

#### (1) Action to approve the Key Business Terms of the Property Exchange Agreement

As envisioned in the MOU, Sound Transit and the City of Bellevue would exchange two properties at the OMF East site to better facilitate both short- and long-term TOD goals. Since the MOU was signed, Sound Transit and the City of Bellevue negotiated a Property Exchange Agreement that would better facilitate the OMF East TOD project by having the development team negotiate with one governmental agency and not two, as well as allow the City of Bellevue to expand the affordable housing outcomes at the OMF East TOD Property by contributing its property at no cost. The key business terms of the Property Exchange Agreement are summarized below:

- The City of Bellevue would transfer its Spur Property to Sound Transit at no cost and Sound Transit would agree to make the Spur Property available at no cost to an affordable housing developer.
- The Spur Property would be encumbered by the City of Bellevue with an affordable housing covenant (Restrictive Covenant) that requires any development include a minimum of 80 units of affordable housing serving residents whose household annual income (based on family size) at the time of initial occupancy does not exceed 60% of the area median income.
- Depending on the ultimate development proposal, the Restrictive Covenant could be transferred to a different building pad within the TOD site, which would be made available at no cost to an affordable housing developer in lieu of the Spur Property.
- At least 15% of the affordable housing units would be sized for families at 2 bedrooms or more and an additional 10% would be 3 bedrooms or more.
- Sound Transit would transfer the Frontage Property to the City of Bellevue at no cost, recognizing that the property is currently best used as right-of-way until such time that the City of Bellevue is able to realign 120th Street to incorporate the Frontage Property with its existing street right-of-way to create a future TOD site.
- The City of Bellevue retains reversionary rights to the Spur Property or a similar property within the TOD Site, as described in the Property Exchange Agreement, if an affordable housing project has not commenced within four (4) years of Agreement execution, unless extended by the City.

The properties are anticipated to include federal participation at the conclusion of the OMF East project. FTA concurrence on the proposed joint development project may be required prior to executing the Property Exchange Agreement or entering into agreements with any development partner.

(2) Action to approve declaration of surplus

The properties shown in Exhibit A were originally acquired for the purpose of constructing OMF East and are being used for construction staging until late 2020. The CEO has reviewed the possible agency uses for the properties and, having considered the agency's Equitable TOD Policy, determined that there are no future agency uses for the properties and has declared the properties surplus upon completion of construction of the OMF East. Sound Transit will reserve certain easements and covenants in support of the operations of the OMF East.

(3) Action to declare the TOD Property as suitable for development as housing

RCW 81.112.350(b)(i) states that, unless certain exceptions apply, "a minimum of eighty percent of [Sound Transit's] surplus property to be disposed or transferred, including air rights, that is suitable for development as housing, must be offered for either transfer at no cost, sale, or long-term lease first to qualified entities that agree to develop affordable housing on the property, consistent with local land use and zoning laws." The statute defines qualified entities as local governments, housing authorities, and non-profit developers.

Staff completed an evaluation and recommend that the TOD Site is suitable for development as housing. It is expected that the TOD project will be mixed-use and mixed-income, including a significant

portion of office and retail. However, staff recommends that the entire TOD Property be declared suitable for development as housing to allow qualified entities maximum flexibility in how they approach site design to achieve the TOD Goals while recognizing that not all of the property will be developed for housing.

The following criteria were considered:

- Threshold evaluation considerations:
  - Housing is a permitted use within the property's zoning district;
  - The size and shape of the property meet the zoning code's minimum requirements for housing;
  - The known environmental conditions are not expected to act as a barrier to constructing housing.
- Other evaluation considerations:
  - There is a real estate market for housing in the local trade area;
  - The MOU requires a minimum of 20% of gross square footage of the TOD area (excluding parking) be used for housing;
  - The Bel-Red Subarea Plan identified the Spring District/120th Station area as a mixed-use station area with employment as the prominent use; and
  - The MDP and the TOD Goals include significant office and retail uses.

(4) and (5) Actions to authorize staff to offer the TOD Site first to qualified entities and to discount the purchase price to achieve affordable housing goals.

As outlined in the Property Exchange Agreement, Sound Transit would agree to transfer the Spur Property or a similar building pad site within the OMF East TOD Property to a qualified entity at no cost to develop affordable housing. Additionally, the TOD Goals developed by Sound Transit with the City of Bellevue would be more feasible if an additional building pad site within the OMF East TOD Property is transferred at no cost to a qualified entity to create more affordable housing. An appraisal from December 2018 established the unrestricted fair market value of the TOD Site as \$36 million. The proposed action would authorize staff to discount the TOD Site by approximately \$12 million to realize the affordable housing outcomes identified in the TOD Goals. The final price will be negotiated through a competitive procurement process and would only allow no-cost or reduced cost transfers for property transferred to a qualified entity for affordable housing outcomes and infrastructure improvements.

Following this action, Sound Transit will initiate a competitive procurement process. Respondents would need to propose a TOD project on the subject OMF East TOD Property. The selected Respondent and negotiated key business terms are subject to Board approval at a later date. Consistent with the Implementation Agreement, the procurement selection committee will include participation from the City of Bellevue.

## **Fiscal information**

The agency's long-range financial plan assumes \$93.8 million (2016\$) from the sale of excess real estate. To date approximately \$40 million (2016\$) is collected from the sale of various TOD sites.

The fair market value of the OMF East TOD property is \$36 million. The proposed action would direct staff to offer the entire OMF East TOD site at a price of approximately \$24 million, which is a discount of approximately \$12 million, to facilitate affordable housing outcomes identified in the TOD Goals. The net

proceeds from this transaction would be recorded as miscellaneous revenue in the East King County subarea.

## **Disadvantaged and small business participation**

Not applicable to this action.

## **Public involvement**

The TOD Goals are informed through public planning processes that included public involvement, such as the City of Bellevue Bel-Red Subarea Plan, the City of Bellevue Affordable Housing Strategy, and the MOU. The OMF East planning and design process included public outreach activities including stakeholder meetings and the environmental outreach process. The stakeholder engagement process for the OMF East included input into the TOD opportunity.

Sound Transit engaged the development community through the Housing Development Consortium of King County TOD Committee as well as held a developer forum in June 2019 to receive feedback on the potential development strategy.

## **Time constraints**

The City of Bellevue is considering action on the Property Exchange Agreement in July 2019 and a delay by Sound Transit may delay actions considered by the City of Bellevue. Delays to the OMF East TOD project would delay the procurement process by a time similar to the initial delay.

## **Prior Board/Committee actions**

Motion M2016-73: Implementation Agreement with the City of Bellevue Pursuant To the Amended & Restated Umbrella Memorandum of Understanding for East Link Project

Motion M2015-33: Authorized the chief executive officer to (1) execute amendments to the Umbrella Memorandum of Understanding and Transit Way Agreement with the City of Bellevue to address permitting, project coordination, a potential Bellevue OMSF, financial terms, and maintenance of the East Link project; and (2) execute a new Three Party Agreement with the City of Bellevue and King County to collaboratively plan and determine the feasibility of a potential city project to re-align 120th Avenue NE.

Resolution R2015-26: Selected the project to be built for the Link Light Rail Operations and Maintenance Satellite Facility.

Motion No. M2014-51: Identified the preferred site for the Link Operations and Maintenance Satellite Facility Final Environmental Impact Statement and approving Gate 3 – Identifying Preferred Alternative within Sound Transit's Phase Gate process.

Resolution R2012-24: Established a policy to guide assessment and facilitation of transit-oriented development (TOD) during planning, design, construction and operation of the high-capacity transit system and supersedes Motion No. M99-60 and Motion No. 98-25.

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**Environmental review** – KH 7/11/19

**Legal review** – JV 7/12/19





## Resolution No. R2019-21

A RESOLUTION of the Board of the Central Puget Sound Regional Transit Authority (1) Approving the key business terms of a Property Exchange Agreement between the City of Bellevue and Sound Transit; (2) declaring certain property adjacent to the Operations and Maintenance Facility East as surplus and available for disposition or redevelopment upon construction completion, (3) declaring the TOD Property as suitable for development as housing; (4) authorizing staff to offer the TOD Property first to qualified entities to create a mixed-use, mixed-income project outcome, and (5) authorizing staff to offer the TOD Property at a discounted price to facilitate affordable housing outcomes.

WHEREAS, the Central Puget Sound Regional Transit Authority, commonly known as Sound Transit, was formed under chapters 81.104 and 81.112 of the Revised Code of Washington (RCW) for the Pierce, King, and Snohomish Counties region by action of their respective county councils pursuant to RCW 81.112.030; and

WHEREAS, Sound Transit is authorized to plan, construct, and permanently operate a high-capacity system of transportation infrastructure and services to meet regional public transportation needs in the Central Puget Sound region; and

WHEREAS, in general elections held within the Sound Transit district on November 5, 1996, November 4, 2008, and November 8, 2016, voters approved local funding to implement a regional high-capacity transportation system for the Central Puget Sound region; and

WHEREAS, the Sound Transit Board by Resolution No. R2011-06 authorized the chief executive officer to acquire, dispose, or lease certain real property interests by negotiated purchase, by condemnation (including settlement of condemnation litigation), or entering administrative settlements, and to pay eligible relocation and re-establishment benefits to affected owners and tenants as necessary for the 6.88 acres of property (TOD Property or TOD Site) adjacent to the Operations and Maintenance Facility East (OMF East); and

WHEREAS, the properties shown in Exhibit A were originally acquired for the purpose of constructing OMF East and are being used for construction staging until late 2020. The CEO has reviewed the possible agency uses for the properties and, having considered the agency's Equitable TOD Policy, determined that there are no future agency uses for the properties and has declared the properties surplus upon completion of construction of the OMF East. Sound Transit will reserve certain easements and covenants in support of the operations of the OMF East; and

WHEREAS, the subject real property generally depicted in attached Exhibit A has been declared surplus by the Chief Executive Officer; and

WHEREAS, The actions are consistent with agreements between Sound Transit and the City of Bellevue that contained certain TOD-related goals (TOD Goals) and processes for OMF East, including the Amended and Restated Umbrella Memorandum of Understanding dated May 6, 2015 (MOU) and the Implementation Agreement Pursuant to Umbrella Memorandum of Understanding for East Link Project dated August 11, 2016 (Implementation Agreement); and

WHEREAS, as envisioned in the MOU, Sound Transit and the City of Bellevue would exchange two properties at the OMF East site to better facilitate both short- and long-term TOD goals. Since the MOU was signed, Sound Transit and the City of Bellevue negotiated a Property Exchange Agreement that would better facilitate the OMF East TOD project by having the development team negotiate with one governmental agency and not two, as well as allow the City of Bellevue to expand the affordable housing outcomes at the OMF East TOD Property by contributing its property at no cost; and

WHEREAS, consistent with Sound Transit policy and RCW 81.112.350, this action will declare the TOD Property as suitable for development as housing and subsequently offer the property first to qualified entities (local governments, housing authorities, and nonprofit developers) for the creation of affordable housing and other uses defined in the TOD Goals; and

WHEREAS, the vision of a mixed-use, mixed-income TOD is supported by TOD Goals collaboratively developed with the City of Bellevue and supported by guiding documents including the Bel-Red Subarea Plan, City of Bellevue Affordable Housing Strategy, the MOU, Implementation Agreement and Master Development Plan developed by the parties; and

WHEREAS, the properties shown in Exhibit A were originally acquired for the purpose of constructing OMF East and are being used for construction staging until late 2020. The Spur Property, currently owned by the City of Bellevue but in possession by Sound Transit for construction staging, is anticipated to be acquired by Sound Transit as a part of the actions considered as a part of this resolution, and would also become surplus and available for joint development or disposition to support a TOD outcome; and

WHEREAS, as outlined in the Property Exchange Agreement, Sound Transit would agree to transfer the Spur Property or a similar building pad site within the OMF East TOD Property to a qualified entity at no cost to develop affordable housing. Additionally, the TOD Goals developed by Sound Transit with the City of Bellevue would be more feasible if an additional building pad site within the OMF East TOD Property is transferred at no cost to a qualified entity to create more affordable housing. An appraisal from December 2018 established the unrestricted fair market value of the TOD Site as \$36 million. The proposed action would authorize staff to discount the TOD Site by approximately \$12 million to realize the affordable housing outcomes identified in the TOD Goals. The final price will be negotiated through a competitive procurement process and would only allow no-cost or reduced cost transfers for property transferred to a qualified entity for affordable housing outcomes and infrastructure improvements; and

WHEREAS, pending approval of this action, Sound Transit will initiate a competitive procurement process following guidelines dictated by RCW 81.112.350. The procurement will be guided by the TOD Goals and other information. Respondents would need to propose a TOD project on the subject OMF East TOD Property.



NOW, THEREFORE, BE IT RESOLVED by the Board of the Central Puget Sound Regional Transit Authority that

- (1) The key business terms of a Property Exchange Agreement between the City of Bellevue and Sound Transit are approved;
- (2) The certain property adjacent to the Operations and Maintenance Facility East are declared as surplus and available for disposition or redevelopment upon construction completion;
- (3) The TOD Property is declared as suitable for development as housing;
- (4) Staff is authorized to offer the TOD Property first to qualified entities to create a mixed-use, mixed-income project outcome, and;
- (5) Staff is authorized to offer the TOD Property at a discounted price to facilitate affordable housing outcomes.

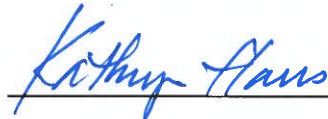
ADOPTED by the Board of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on August 22, 2019.



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John Marchione  
Board Chair

**Attest:**



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Kathryn Flores  
Board Administrator

# Resolution No. R2019-21 - Exhibit A

## OMF East TOD Site and Frontage Property

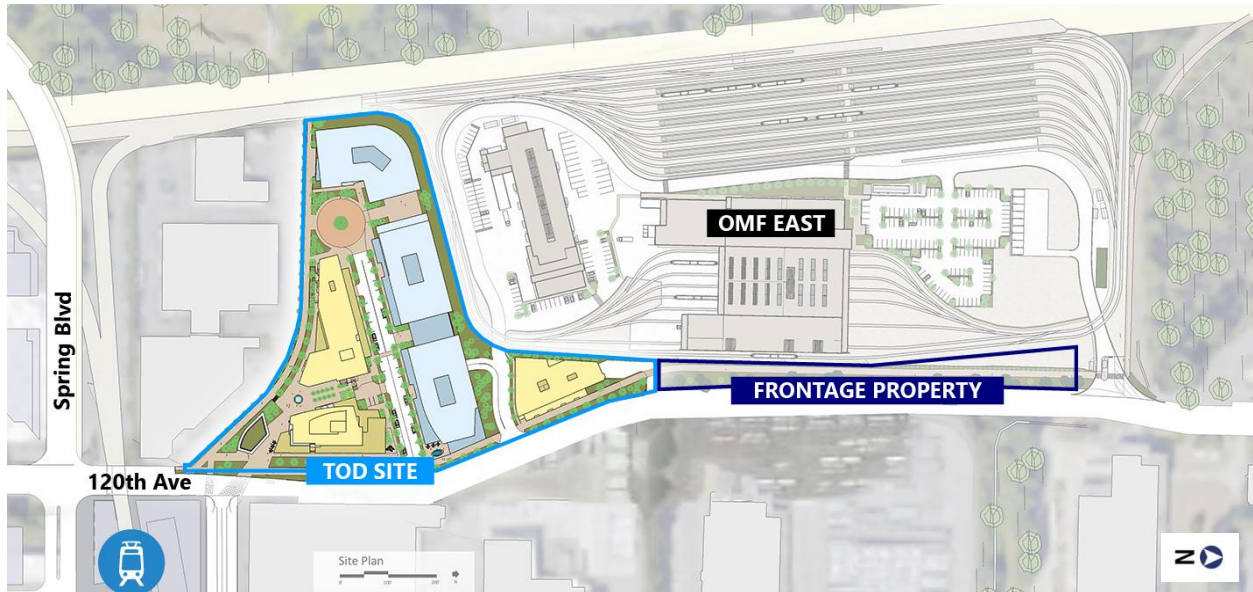


Figure 1: TOD Site and Frontage Property shown in context to OMF East (upper right) and Spring District/120th Station (lower left).

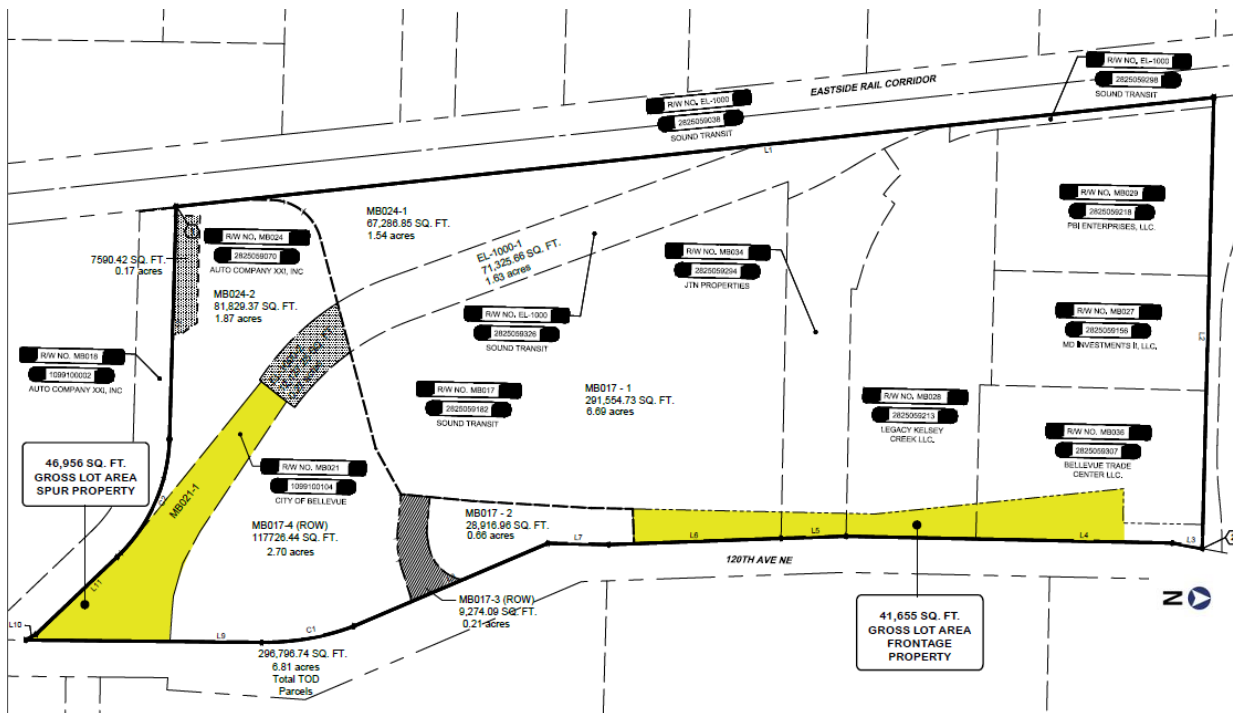


Figure 2: Underlying properties included in surplus action (portions of property indicated by \*), referenced by Sound Transit Right of Way number.

### OMF East TOD Site

MB017\*, MB021, MB024\*, EL1000\*

### Frontage Property

MB017\*, MB028\*, MB034\*, MB036\*