

# MEMORANDUM

Date: June 7, 2021

To: Upper Harbor Terminal Collaborative Planning Committee

From: Erik Hansen, CPED

Subject: Upper Harbor Terminal Music Venue Ownership

**Summary**

The City of Minneapolis (City) recently became aware of a change in the requirements within State bond funded grant agreements regarding City ownership and operation of government program for bond-funded facilities. This impacts the proposed ownership structure of the Community Performing Arts Center (CPAC) that is proposed as part of the Upper Harbor Terminal (UHT) redevelopment.

The State of Minnesota (State) has relaxed its rules and now automatically releases its interest in publicly owned bond projects at the point where the bond-financed facility is at 125% of its useful life (estimated at 62.5 years for the CPAC). The UHT CPC supported, and the Draft Coordinated Plan recommends, a “Sandwich model” with First Avenue, partnering with a Community Entity (“FA+CE Option”), to own the land and facility. The previous rules required the City to be responsible for owning, maintaining and operating the facility forever if it owned the land and/or the building. When the UHT CPC discussed ownership options, the City was not willing to take on this perpetual obligation to run and maintain the CPAC. Under these new rules the City would only have to ensure the CPAC operates for 62.5 years, which is the same obligation as the “Sandwich model”. As a result of this change, the City is now willing to own the CPAC (land and facility). A City-owned option aligns with the UHT CPC’s stated goal to keep all the land in public ownership.

The table below compares the two options. Additional background on the options and the process follow.

	FA+CE Option	City-owned option
Ownership	First Avenue with a community entity. City controls CPAC for first 62.5 years	City of Minneapolis
Operator	First Avenue	First Avenue
Financing	State of Minnesota bond-funded grant of \$12.5 million, First Avenue to fund other half of project with private funds, no City funding sources.	State of Minnesota bond-funded grant of \$12.5 million, First Avenue to fund other half of project with private funds, no City funding sources.
Land lease proceeds for community use	None	None
Community Benefits	See detail below	See detail below

- Ticket Fee	\$3.00-per-ticket to community entity pursuant to Community Benefit Agreement	\$3.00-per-ticket to community entity pursuant to Community Benefit Agreement
- Other benefits	Discounted tickets, Northside preferences, and community access for programming pursuant to use agreement	Discounted tickets, Northside preferences, and community access for programming pursuant to use agreement
- Partial community ownership in CPAC	Yes (49% minority stake)	No (Publicly owned – City)

## Background

### *State bond funded requirements for Cultural Institutions*

The State’s Office of Minnesota Management and Budget (MMB) previously required the owner of State bonded funded cultural institutions to own, operate and maintain the cultural institution (the “government program”) that was funded by the state grant in perpetuity. The City of Minneapolis has recently become aware of a removal of this requirement from these grant agreements, limiting the required government program of the bond funded facility to 125% of the useful life of the facility.

Based on this previous requirement, below are three ownership models that were discussed with the UHT CPC to address the CPAC ownership. These ownerships models were discussed specifically at the 1/22/20, 2/12/20 and 9/2/20 UHT CPC meetings. (See [1-22-20 UHT CPC CPAC Presentation](#), [2-12-20 UHT CPC – CPAC Ownership Options](#) and [UHT CPC 9-2-20 Community Ownership Implementation Strategies](#))

At the 9/2/20 UHT CPC meeting, the Committee adopted a motion to “accept the recommendation that the CPAC land ownership land be owned by FA+CE of the CPAC parcel.”

#### 1. “Guthrie model” or “Sandwich model” ownership model

The typical ownership structure of cultural institutions that have received State bond funded grants does not have the City in a land ownership (fee title) position. Rather, the City has a leasehold interest for 125% of the useful life of the facility. The State bond funding requires that the City have an ownership or leasehold interest in the property and facility for at least 125% of the useful life of the facility and the State requirements attach to the City’s interest. In most instances, the cultural institution has already owned the land prior to receiving the state bond funding or has negotiated to purchase the land. Unfortunately, because the State would not agree up front to release its bond requirements at the 125% point, if the City was in fee ownership of the land and facility, the City would be required to run the government program in perpetuity and ensure the continued operation and maintenance of the facility .

Stated examples of the “Guthrie model” structure are cultural institutions in Minneapolis such as the Guthrie Theater, Orchestra Hall and MacPhail. In this structure (referred to in previous UHT CPC materials and discussion as the “sandwich” structure due to the layered lease structure) the cultural organization (“developer”) owns the underlying land, while the City leases the land from the “developer” for 125% of the useful life of the facility, and

then leases it back to the entity to operate the facility (See [Draft Coordinated Plan](#) page 15). At the end of the useful life of the facility (estimated at approximately 62.5 years for the CPAC) the City's leasehold interest would go away, the lease structure (the "sandwich") would "collapse" and the "developer" would still have the fee title (land ownership) and operate the facility.

### 2. "Target Center" ownership model

In this structure, the City would have the fee title to the land and own the improvements to the land (the facility) and would be responsible for owning and maintaining that facility. Due to the previous requirements of State bond funded cultural institutions, this would have meant that the City would be responsible for maintaining and operating a bond-funded facility in perpetuity. In the case of the CPAC, this would have meant that the City would have been responsible to own, operate and maintain a Community Performing Arts Center in perpetuity. The City did not want to be in this position.

### 3. "FA+CE" ownership model

The third model would be specific to UHT, which was proposed in response to community concerns of a private company (First Avenue) owning and purchasing the land for the CPAC from the City, which would put the CPAC parcel of land in private ownership and out of public ownership. The City proposed this "FA+CE" structure, which was recommended by the UHT CPC on 9/2/20 and included in the Draft Coordinated Plan (See p 13, 15, 68, 78, 94). This ownership model is that the underlying (fee title) ownership would not be the City, nor solely First Avenue. Rather the ownership would be a new entity - a partnership of First Ave Productions or related entity (FA) (in a majority or 51% ownership) and a to-be-determined "Community Entity" (CE) (in a minority or 49% ownership) to own the land (Parcel 3) and the CPAC facility. The City would still lease the facility from the FA+CE entity and enter into an operating agreement with First Avenue.

This model was proposed to provide a (minority) ownership stake in the land and CPAC facility for a community-based entity or organization. The City would still lease the facility to run the government program for 125% of the useful life (approximately 62.5 years) of the facility as required by the State bond funds. The City, as the lessee of the facility, would enter into an operating agreement with First Avenue as the operator of the CPAC facility. (See [Draft Coordinated Plan](#) page 15). At the end of the useful life, the City's interest would end and the "Guthrie" or "sandwich" model would mean that the lease structure goes away with the City's leasehold interest, and what is left is the FA+CE with fee title (land ownership) of the CPAC and the CPAC facility.

### **Updated CPAC Ownership Option**

A new ownership structure is now an option as a result of recent information received by the City regarding a change in State bonded funded requirements from the Office of MMB. The State bond interests no longer attach to the facility in perpetuity, requiring the City to agree to maintain and operate the facility as a music venue to the State's satisfaction forever. Therefore, the City is open to retaining ownership of the land and facility, and entering into an operating agreement with First Ave Productions, same as the other ownership models for half the useful life term or around 31 years, renewable at the City's option for another 31 years.

This proposed ownership option would put the City in ownership of the land and CPAC facility. Under the new MMB rule the City would only have to ensure the CPAC operates for 62.5 years, which is the same obligation as the “Sandwich model”. As a result of this change, the City is now willing to own the CPAC (land and facility).

## **Community Benefits and Ownership in UHT Redevelopment**

### *Community Benefits*

Proposed community benefits are outlined in the [Upper Harbor Terminal Draft Coordinated Plan](#):

- pages 13-15 – Summary of Community Benefits
- pages 64-65 – Mapping Proposed Community Benefits: Guide to Future Agreements
- pages 93-94 – Implementation: Community Performing Arts Center

The [UHT CPC 6-9-21 Development Team Update Memo](#) includes a copy of the current *Draft Community Benefits Agreement (CBA) between United Properties, First Avenue and McKinley Community*. The CBA includes community benefits that the City cannot include in the future Redevelopment Agreements, ground leases and CPAC use agreement (the City will not be party to the CBA). See [Draft Coordinated Plan](#) pages 64-65 Mapping Proposed Community Benefits for what community benefits would be contained in a CBA and what benefits would be contained in City agreements/ground leases.

### *Community Ownership*

There is a range of ownership proposed in the management and ownership of real estate at UHT, as discussed with UHT CPC specifically at the 9/2/20 meeting (See [UHT CPC 9-2-20 Community Ownership Implementation Strategies](#) page 9.) There are multiple types of, and opportunities for, ownership across the redevelopment in addition to the FA+CE CPAC ownership structure, as noted in the Draft Coordinated Plan (pages 78-79) and the [6/9/21 UHT CPC Development Team Update Memo](#).

The ownership opportunities include:

- Individual ownership of townhomes
- Community entity ownership or management of ground floor commercial spaces
- Community Entity role in the Health and Wellness Hub
- Ensuring that the Northside Community (per UHT CPC definition) have cultural ownership of the entire site – both the developments and the park spaces and riverfront
- Community Programming at the CPAC
- Community Fund Manager for the ticket fee fund from the CPAC (First Ave ticketed events)

## **Attachments**

- Proposed Land Ownership (with proposed revision for CPAC parcel – see Draft Coordinated Plan page 67)
- Proposed Revised Ownership Opportunities (See Draft Coordinated Plan page 15)

## **References**

[UHT CPC 1-22-20 CPAC Presentation](#)

[UHT CPC 2-12-20 – CPAC Ownership Options](#)



[UHT CPC 9-2-20 Community Ownership Implementation Strategies](#)

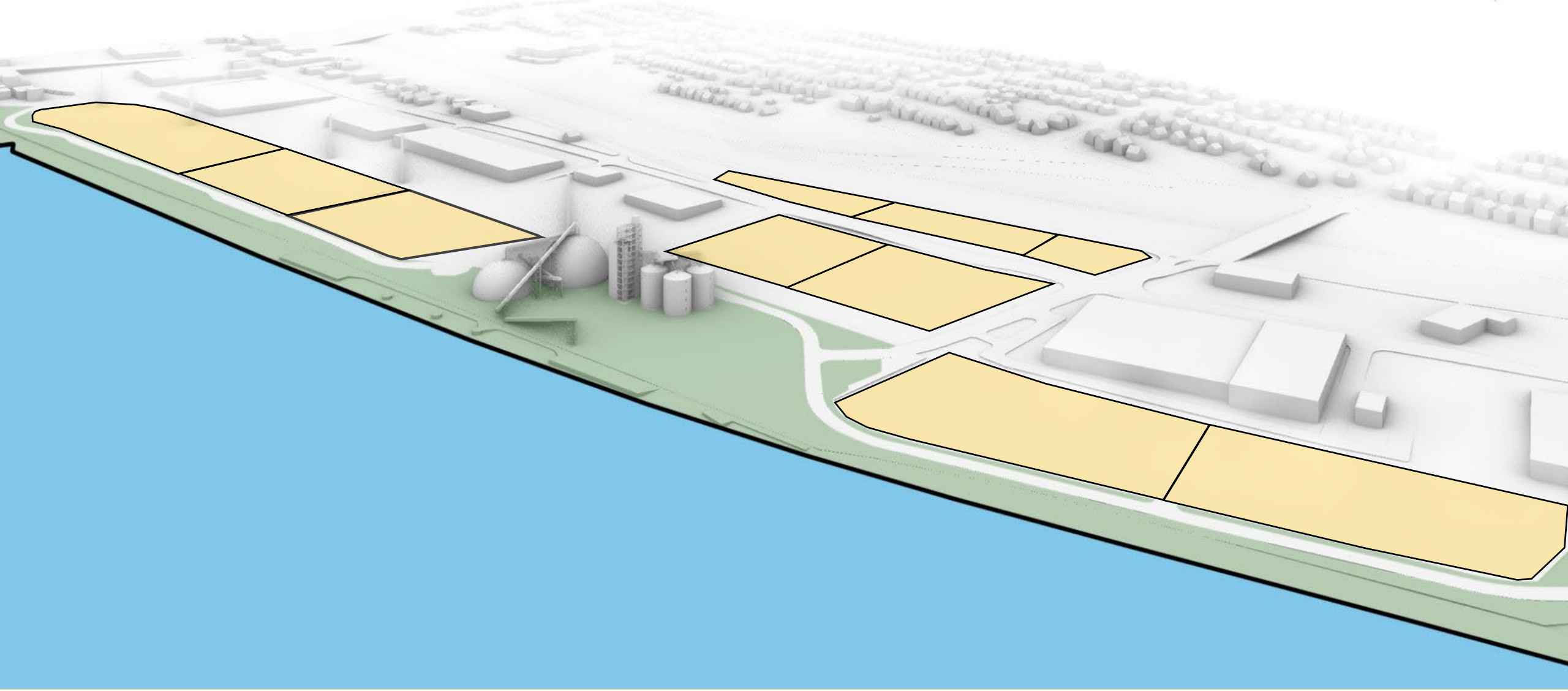
[Upper Harbor Terminal Draft Coordinated Plan \(February 2021\)](#)

- pages 13-15 – Summary of Community Benefits
- pages 64-65 – Mapping Proposed Community Benefits: Guide to Future Agreements
- pages 67-68 – Ownership: Land and Real Estate Ownership
- page 75 – Implementation: Community Entity Selection
- pages 78-79 – Implementation: Community Entity Potential Roles & Responsibilities
- page 80 – Community Entity Role: Community Fund Manager/Advisor
- pages 93-94 – Implementation: Community Performing Arts Center

[UHT CPC 6-9-21 Development Team Update Memo](#)

# LAND OWNERSHIP (BY PARCEL) WITH PROPOSED UPDATED CPAC OWNERSHIP

-  City of Minneapolis
-  Minneapolis Park & Recreation Board



# Proposed Ownership Opportunities

**Community Benefits Agreement** with First Ave/UP, McKinley and future Community Entity; funds to go to Community Entity to support programs. City cannot enforce the CBA, but the CE has more control over the use of the funds.

City has Right to Purchase at FMV at end of compliance period

**Affordable Housing:**  
Owned in LLC by LIHTC Investor & Developer



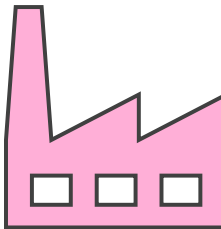
**Commercial Space**  
*Owned & Managed By \*Community Entity*



**Townhomes:**  
For sale, individual home owners/occupiers; perpetual affordability possible through Land Trust partnership



**HUB Space(s)**  
*Owned & Managed By \*Community Entity*



**Business Park/Production Buildings**  
Owned by Developer. Leasing will be consistent with financeable, commercially reasonable leasing practices.



**Ticket Fee Proceeds (\$3/Ticket)**

**Operator: First Avenue**

**City of Minneapolis**  
Owns Land + Facility. Government Program required for 62.5 years. City selects Operator.

**OWNER OF RIVERFRONT: MPRB**

**OWNER OF DEVELOPMENT PARCELS: CITY OF MINNEAPOLIS**

**FINANCEABLE (LONG-TERM) GROUND LEASES**

*\*Community Entity (CE) to be determined. Could be existing organization (ex. Building Blocks), new CDC, or other.*