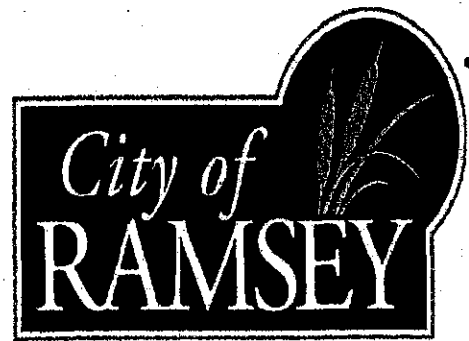


## CITY COUNCIL WORK SESSION

### Topic Report: Lease Property Management

By: Sean M. Sullivan, Economic Development  
Coordinator



#### Background:

On December 13, 2005, the City Council approved the original property management agreement with Premier Commercial Properties to manage the property located at 6701 Hwy 10 (Former NAU Insurance). On June 27, 2006 the City Council updated the agreement to its current form and added the properties located at 6101 Hwy 10 (Ralph's Gun and Pawn) and 6745 Hwy 10 (Midwest Car Care). The rate was dropped from \$600.00 per parcel to its current rates ranging from \$200.00 to \$400.00 per parcel, or \$1000.00 per month. Payments are made from available lease revenue to Premier Commercial Properties to manage these three properties. It should be noted that any additional lease revenue over the city administrative costs (property management included) is returned to the RALF program.

The Property Manager is responsible for keeping the properties leased, and in good working order. The manager also serves as the contact to the tenants for repairs necessary to the property and tenant disputes. Other duties and responsibilities of the property manager are defined in the Management Agreement dated July 28<sup>th</sup>, 2006.

On March 24, 2009 the status of the Property Management Agreement for Highway 10 Right-of-Way Acquisition Loan Fund (RALF) was discussed. That discussion prompted additional questions as to the tax implications of utilizing RALF, and what property management services were being rendered by Premier Commercial Properties. A tax summary is attached showing what each property generates in taxes and an approximation on what the City ultimately receives from the tax distribution. Staff has also completed a matrix that summarizes the activity reports for Premier Commercial Properties from February of 2006 to the present. The City property manager also has all of the properties listed with: Costar Showcase, MNCAR, Loopnet, GoFish and the Premier Commercial Properties website. Marty Fisher, from Premier Commercial Properties will also be present to answer any questions the City Council may have in regards to what the City is receiving for services under the property management agreement.

#### Action Statement:

*Based on discussion.*

#### Reviewed by:

Community Development Director  
City Administrator

A handwritten signature in black ink, appearing to be "S. Sullivan", is written over a horizontal line. The signature is written in a cursive style.

CCWS: 06/23/2009

#### Attachments:

Copy of Current Property Management Agreement dated 7/28/06  
Tax Summary  
Activity Report Summary

## MANAGEMENT AGREEMENT

AGREEMENT made as of the 28<sup>th</sup> day of July, 2006, by and between the City of Ramsey, a Minnesota Municipal Corporation ("Owner") and Premier Commercial Properties, Inc., a Minnesota Corporation ("Manager").

### RECITALS

WHEREAS, Owner is the holder of fee simple title to each of the properties described on Exhibit A attached hereto and incorporated herein (such properties being individually referred to as "Property" and collectively referred to as "Properties"), and desires to engage Manager to manage and operate the same; and

WHEREAS, Manager desires to manage and operate the Properties for and on behalf of Owner on the terms, and subject to the conditions hereinafter set forth.

IN CONSIDERATION of the mutual promises and covenants contained herein, Owner and Manager agree as follows:

### ARTICLE I.

#### APPOINTMENT; PROPERTIES

1.1. Appointment. Owner hereby designates and appoints Manager to act as the managing agent with respect to each Property identified on Exhibit A hereto, and hereby delegates to the Manager the power, authority and responsibility hereinafter described.

1.2. Identification of Properties. The list of Properties may be amended at any time during the continuance of this agreement for the purpose of including additional Properties within the Agreement upon the written consent of Owner and Manager.

### ARTICLE II.

#### MANAGEMENT; BUDGET

2.1. Management. Manager shall use its best efforts to manage the Premises in a commercially reasonable manner and collect the rents and other income therefrom in a timely manner.

2.2. Employees. The Manager shall cause to be employed at all times a sufficient number of capable employees to properly, adequately, safely and economically manage, operate, maintain, and account for each Property. All matters pertaining to the employment,

supervision, compensation, promotion and discharge of such employees are the responsibility of the Manager.

2.3. Budget. On or before sixty (60) days prior to the end of each calendar year, and annually thereafter, Manager shall submit to Owner a proposed budget on Owner's form of proposed expenditures for the following fiscal year for each property showing all items for which expenditure shall be made, including but not limited to, such items as the number and type of employees and their salaries. Except as set forth in the following sentence, each Property budget shall, in each case, be approved in writing by Owner (an "Approved Budget") before the same shall become effective, and when so approved, no lease proposal at less than the rate specified in such schedule shall be made by Manager except with the prior written consent of Owner. Notwithstanding the foregoing to the contrary, if Owner fails to object or otherwise respond in writing within thirty (30) days after receipt of a proposed budget from Manager, such proposed budget shall be deemed to be approved, as Manager requires approval of the budget at least thirty (30) days prior to the commencement of the next following year in order to meet its obligations hereunder.

2.4. Budget Modifications. Manager shall, at such times as it deems appropriate or as Owner requests, submit to Owner for its review and approval proposed modifications to the Annual Budget and the Annual Leasing Plan and comparisons of the Approved Budget to operations for the year to date.

2.5. Enforcement of Leases. Manager shall, subject to Owner's prior written consent and in the name of and at the expense of Owner, institute any and all legal actions or proceedings necessary for the collection of rent or other income from the Premises or to remove any unauthorized tenant or person from the Premises. Manager shall have the authority, without Owner's prior written approval except as hereinafter provided, to enforce all leases, including, without limitation, the sending of default notices, provided that Manager shall obtain the approval of Owner prior to instituting any legal action, and prior to terminating any lease and report to Owner, on a monthly basis, any lease delinquency. Manager shall submit to Owner promptly upon receipt any notice of landlord default received from any tenant.

2.6. Repairs, Maintenance and Capital Improvements. Manager shall use its commercially reasonable efforts to keep each Property in good order and repair, and shall purchase or arrange for the purchase of all inventories, provisions, supplies and operating equipment which are reasonably necessary to maintain and operate each Property. The Approved Budgets shall constitute an authorization for Manager to expend monies for repairs, maintenance and capital improvements projects as provided therein. All repairs, maintenance and capital improvement projects in excess of the funds allocated therefor in the Approved Budget shall be contracted by Manager only after securing Owner's approval, except (i) with regard to emergency maintenance or repairs which shall be handled in the commercially reasonable discretion of Manager, (ii) with regard to the provision of essential services to the

tenants of each Property, such as common area utilities and snow removal and (iii) to the extent Manager has theretofore achieved savings within the Approved Budget for such Property on other line items. Manager shall give prompt notice of any such emergency repairs to Owner for which reasonable funds were not provided in the applicable Approved Budget.

2.7. Service and Utility Contracts. Manager shall, at Owner's expense, make contracts for electricity, gas, steam, fuel, water, telephone, window cleaning, landscaping, snow removal, vermin extermination and other services as may be required for the efficient operation of the Premises, all in accordance with the Approved Budget, or otherwise as approved by the Owner.

2.8. Monthly Account Statements. On or before the twentieth (20<sup>th</sup>) day of each calendar month, Manager shall remit to Owner's account any funds on hand not reasonably expected to be needed for operation and management of each Property in accordance with the Approved Budget for such Property. On or before the twentieth (20<sup>th</sup>) day of each calendar month, Manager shall submit to Owner as to each Property a detailed monthly statement of receipts and disbursements for the previous calendar month in form and content acceptable to Owner. Each such monthly statement shall include a statement of income and expense, a detailed expense report, a cash collection analysis, a schedule of security deposit activity, a statement of receipts and disbursements, and a summary of the leasing activity relating to such Property, or otherwise as necessary for the performance of Manager's obligations hereunder.

2.9. Advances by Manager. Owner shall reimburse Manager promptly for any monies which Manager may advance at Owner's request for the account of Owner. Nothing herein contained, however, shall be construed to obligate Manager to make any such advances.

2.10. Property Management Accounts. Manager shall maintain an operating account for each Property in a bank selected by Manager and approved by Owner (a "Property Management Account"). If required by applicable law, all security deposits collected by Manager from tenants of each Property shall be deposited in a separate account in a bank approved by Owner and shall be separated from the applicable Property Management Account. Manager's employees who handle or are responsible for Owner's monies shall be covered by a fidelity bond or Employee Dishonesty Insurance. The amount of said bond or insurance and the issuer thereof to be approved by Owner, in its reasonable discretion, but in no event shall the face amount of such coverage exceed \$500,000. Each account shall provide that funds deposited therein may be withdrawn by Manager, unless and until otherwise directed by the Owner in writing.

2.11. Reimbursement of Expenses. Except as otherwise expressly provided herein, Manager shall be reimbursed by Owner for all reasonable expenses, fees, charges, outlays, salaries and other costs paid or incurred by Manager hereunder to the extent the same are either included within the Approved Budget for each Property or are otherwise authorized by Owner.

As an example, and not by way of limitation, such costs and expenses shall include postage, delivery charges, long distance telephone calls and mileage directly related to the management and operation of the Property.

2.12. Taxes; Mortgages. Manager shall, if so requested, obtain and verify bills for real estate and personal property taxes, improvement assessments and other like charges which are or may become liens against each Property and recommend payment or appeal as Owner in its best judgment may determine. In the event Owner elects to make payments for such taxes, assessments or charges directly, Manager shall forward such bills to Owner for payment by Owner in such time to permit Owner to avoid penalty for late payment or to permit Owner to take advantage of available discounts, if any. Manager shall not make any payment on account of any ground lease, mortgage, deed of trust or other security instrument, if any, affecting any Property unless specifically authorized to do so by Owner in writing.

2.13. Property Maintenance Records. Manager shall keep full and detailed records covering the maintenance and management of the Premises. Said records shall be the property of Owner. Owner and Owner's accountants at all times shall have access to such records as well as to all other books and records of Manager in connection with the maintenance and management of the Premises. Owner shall endeavor in good faith to provide Manager reasonable advance notice of Owner's intent to inspect or review any such records.

2.14. Compliance With Laws. Both Owner and Manager shall, in good faith seek to comply with all statutes, ordinances, orders, rules, regulations and other laws of federal, state, county and municipal authorities (collectively, "Applicable Laws") in good faith seek to and with any direction of any public officer or officers acting pursuant to law, relating to each Property. If either party receives notice of any violation of any Applicable Laws, such party shall provide timely written notice of such violation to the other party.

### ARTICLE III.

#### INDEMNIFICATION; INSURANCE

3.1. Manager's Insurance. Manager shall secure and maintain worker's compensation insurance with respect to all employees of Manager, as required under state law. Manager shall furnish to Owner satisfactory evidence of the foregoing insurance to Owner upon request.

3.2. Owner's Insurance. With respect to each Property, Owner will maintain and keep in force, fire and extended coverage insurance and, if applicable, boiler and machinery insurance, on a replacement cost basis. Owner, at its own expense, shall also obtain and keep in force comprehensive general liability insurance insuring against loss, damage or injury to property or persons which might arise out of the occupancy, management, operation, leasing or maintenance of each Property, with reasonable liability limits as shall be negotiated between

Manager and Owner. Manager will be named as additional insured on all liability policies. Owner shall provide Manager with copies of certificates of insurance on all insurance hereinabove required.

3.3. Waiver of Subrogation. Manager and Owner shall endeavor in good faith to obtain waivers of subrogation from their respective insurers and shall, if such waiver is available, provide reasonable evidence thereof to the other party. If such waiver is not available, such party shall advise the other party thereof in writing.

3.4. Indemnification of Owner. Manager agrees to hold and save Owner free and harmless from any and all liabilities, damages, claims, causes of action, or costs or other expenses, including without limitation reasonable attorneys' fees, paid or incurred by Owner as a direct and proximate result of negligent acts, omissions, or intentional misconduct of Manager, its employees or agents. In connection with any such claim asserted against Owner, its agents, or employees, Manager shall defend such party with legal counsel reasonable acceptable to Owner.

3.5. Indemnification of Manager. Owner agrees to hold and save Manager free and harmless from any and all liabilities, damages, claims, causes of action, or costs or other expenses, including without limitation reasonable attorneys' fees, paid or incurred by Manager, the conduct of its agents and employees, within the scope of this Agreement in its capacity as property manager hereunder, except for (i) claims based on the negligent acts, omissions, or intentional misconduct of Manager, its agents or employees or (ii) acts of Manager, its agents or employees, outside the scope of Manager's duties hereunder. In connection with any such claim against Manager, its agents or employees, Owner shall defend such party with legal counsel reasonably acceptable to Manager.

#### ARTICLE IV.

#### COMPENSATION

4.1. Property Management Fees. In addition to other amounts payable hereunder, Owner agrees to pay Manager each calendar month during the term hereof, a property management fee as set forth as Exhibit B attached hereto and made a part hereof, for all management services provided pursuant to the terms of this Agreement.

4.2. Operating Funds. In addition to the fees described in Section 4.1, Owner shall provide funds to Manager in order to pay any and all related operating expenses with respect to the premises on a current basis, in accordance with the Approved Budget or otherwise as authorized hereunder, including without limitation the applicable cost.

4.3. Extraordinary Services. If Manager is requested or required to perform extraordinary services not customarily a part of the usual services performed by managers of similar properties, it is agreed by the parties hereto that Manager shall receive additional compensation therefor in an equitable amount to be agreed upon between parties in good faith. Such extraordinary services would include, without limitation, assisting in the refinancing of Property and providing construction design or space planning services. If the parties cannot agree on the amount of such additional compensation, said matter shall be submitted to binding arbitration in accordance with the rules of the American Arbitration Association.

4.4. Compensation Review. It is the intention of both Owner and Manager that Manager receive fair and reasonable compensation for the performance of its management duties specified herein. Accordingly, Owner and Manager agree to review the schedule of compensation of Manager set forth on Exhibit B hereto upon written request of either party, given by either party not more often than once every two (2) calendar years during the term hereof. If applicable, Owner and Manager agree to negotiate in good faith a revised compensation schedule in the event that the compensation paid to Manager by Owner hereunder either materially exceeds or is materially less than compensation currently being paid to other property managers of similar reputation and quality for similar services within the geographical area in which Property is located. If Owner and Manager cannot reasonably agree on a revised compensation schedule within thirty (30) days after written notice of request for such compensation review by either party, any remaining disputes shall be settled by arbitration in accordance with the rules established by the American Arbitration Association. Such arbitration shall be held within the city in which the Property in question is located.

## ARTICLE V.

### TERM

5.1. Term. This Agreement shall commence on the 1<sup>st</sup> day of December, 2005 and shall continue in full force and effect on a month to month basis thereafter, until the same shall have been terminated in accordance with the provisions of this Article V.

5.2. Termination. Either party may terminate this Agreement without cause, upon 60 days written notice to the other party.

5.3. Final Accounting. Upon termination of this Agreement for any reason or the withdrawal of any Property, Manager shall deliver to Owner the following with respect to each Property or with respect to the Property withdrawn, as the case may be:

- (a) a final accounting, reflecting the balance of income and expenses on each such Property as of the date of termination or withdrawal to be delivered within thirty (30) days after such termination or withdrawal;

(b) any balance or monies of Owner or tenant security deposits, or both, held by Manager with respect to each such Property to be delivered immediately upon such termination or withdrawal; and

(c) all records, contracts, leases, receipts for deposits, unpaid bills and other papers or documents which pertain to each such Property to be delivered immediately upon such termination or withdrawal.

Upon such termination or withdrawal, Owner will assume responsibility for payment of all approved or authorized unpaid bills.

#### ARTICLE VI.

#### MISCELLANEOUS

6.1. Notices. All notices, demands, consents and reports provided for in this Agreement shall be in writing and shall be given to the Owner or Manager at the address set forth below or at such other address as they individually may specify thereafter in writing.

OWNER: City of Ramsey

ATTENTION: Sean Sullivan  
Economic Development Coordinator  
15153 Nowthen Blvd NW, Ramsey, MN 55303

MANAGER: Premier Commercial Properties, Inc.  
6897 139th Lane NW  
Ramsey, MN 55303  
Attention: Marty Fisher  
(763) 862-2005

Such notices or other communications may be mailed by United States registered or certified mail, return receipt requested postage prepaid and may be deposited in a United States Post Office or a depository for the receipt of mail regularly maintained by the post office. Such notices, demands, consents and reports may also be delivered by hand, or by any other method or means permitted by law. For purposes of this Agreement, notices will be deemed to have been "given" upon personal delivery thereof or forty-eight (48) hours after having been deposited in the United States mail as provided above.

6.2. No Assignment. This Agreement and all rights hereunder, shall not be assignable by either party hereto without the written consent of the other.

6.3. Amendments. Except as otherwise herein provided, any and all amendments, additions or deletions to this Agreement shall be null and void unless approved by Owner and Manager in writing.

6.4. Headings. All headings herein are inserted only for convenience and ease of reference and are not to be considered in the construction or interpretation of any provision of this Agreement.

6.5. Representations. Manager represents and warrants that it is fully qualified and licensed, to the extent required by law, to manage real estate and perform all obligations assumed by Manager hereunder. Owner represents and warrants to Manager that it has full right and authority to enter into this Agreement with Manager with respect to each Property listed on Exhibit A hereto.

6.6. Attorneys Fees; Costs. In the event of litigation arising out of a breach or alleged breach of this Agreement by either Owner or Manager, the prevailing party (i.e., the party whose position is substantially upheld) shall be entitled to reimbursement for all costs incurred in connection therewith, including reasonable attorney's fees.

6.7. Applicable Law. This Agreement shall be construed, as to each Property, in accordance with and governed in all respects by the laws of the state where such Property is located. If any provision of this Agreement shall be prohibited or held invalid under such law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or any other provisions of this Agreement.

6.8. Complete Agreement. This Agreement and the Exhibits attached hereto and made a part hereof, supersedes and takes the place of any and all previous management agreements entered into between the parties hereto relating to the Properties covered by this Agreement, and constitutes the entire agreement between the parties.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement and have affixed their seals hereunto.

OWNER:

City of Ramsey

By: [Signature]

Its: Mayor

Date: 7/28/06

MANAGER:

Premier Commercial Properties, Inc.

By: [Signature]

Its: Chief Mgr

Date: 7/28/06

EXHIBIT A

List of Properties

- 1) Lot 3, Block 1, Deal Industrial Park  
6701 Highway 10 NE, Ramsey, MN 55303  
NAU Building  
  - A 28,360 square foot retail property
  
- 2) Lots 3 and 4, Block 1, GUY Addition, Anoka County, Minnesota  
6107 Hwy 10 NW, Ramsey, MN 55303  
Ralph's Gun and Pawn  
  - A 3,808 square foot retail property
  
- 3) Lot 2, Block 1, Deal Industrial Park, Anoka County Minnesota  
6745 Hwy 10 NW, Ramsey, MN 55303  
Anchor's Away Building  
  - A 17,132 square foot retail property

Additional properties may be added from time to time as the City acquires additional properties.

EXHIBIT B

I. Property Management Fees

- 1) Lot 3, Block 1, Deal Industrial Park  
6701 Highway 10 NE, Ramsey, MN 55303  
NAU Building

- A 28,360 square foot retail property

Five percent (5%) of Gross receipts with a monthly minimum of \$400.00 each month

- 2) Lots 3 and 4, Block 1, GUY Addition, Anoka County, Minnesota  
6107 Hwy 10 NW, Ramsey, MN 55303  
Ralph's Gun and Pawn

- A 3,808 square foot retail property

Five percent (5%) of Gross receipts with a monthly minimum of \$200.00 each month.

- 3) Lot 2, Block 1, Deal Industrial Park, Anoka County Minnesota  
6745 Hwy 10 NW, Ramsey, MN 55303  
Anchor's Away Building

- A 17,132 square foot retail property

~~Five percent (5%) of Gross receipts with a monthly minimum of \$400.00 each month~~

In the event that this Agreement commences on a day other than the first day of the month, then the minimum fee shall be prorated for such partial first month.

Property Tax Summary

Parcel ID	Address	Common Name	Tax Assessed			Estimated	Estimated		
			Value	Total Tax	Local Tax	FD Tax	City %		City Portion
34-32-25-12-0009	6701 Hwy 10 NW	NAU Building	796,000	\$ 24,194.44	\$ 9,419.27	\$ 6,081.22	40%	\$ 6,200.20	Actual
34-32-25-12-0009	6701 Hwy 10 NW	NAU Building	1,175,500	\$ 36,257.59	\$ 14,131.75	\$ 9,124.14	40%	\$ 9,302.36	Estimate
34-32-25-12-0008	6745 W Hwy 10 NW	Midwest Car Care	900,700	\$ 27,522.70	\$ 10,718.64	\$ 6,921.64	40%	\$ 7,056.11	Actual
34-32-25-31-0028	6101 Hwy 10 NW	Ralph's Gun	278,900	\$ 9,028.38	\$ 4,268.19	\$ 1,935.88	40%	\$ 2,481.63	Actual
35-32-25-31-0027	6101 Hwy 10 NW	Ralph's Gun	105,100	\$ 3,894.13	\$ 1,858.38	\$ 842.75	40%	\$ 1,080.45	Actual
Total Tax Generation		\$	64,639.65						
Potential Tax Generation		\$	76,702.80						
Actual City Tax Revenue		\$	16,818.39						
Potential Tax Revenue		\$	19,920.55						

Summary of Activity Reports for Premier Commercial Properties Property Management (February 2006 to June 2009)

Property	Outside Property Maintenance	Walkthrus Building Maintenance	Showed Space	Signs	Meeting with Tenant	Meeting with City	Tenant Lease Negotiation	General Inquiries/Prospecting
6701 Hwy 10	16	92	21	3	19	10	15	15
6745 Hwy 10	11	26	3		29	8	17	14
6101 Hwy 10	7	12	8	2		6		5

\* A copy of the activity reports are avaiable upon request.

REC'D APR 12 2010



13100  
5-11-10

# INVOICE

DATE: 3/31/2010

INVOICE #: 2353

**Premier Commercial Properties, Inc**  
*A Real Estate Services Company*

6897 139th Lane NW  
Ramsey, MN 55303

Phone 763.862.2005 Fax 763.862.1925

Vendor # 107978  
9410 10315      615.53 41001  
 \_\_\_\_\_  
 \_\_\_\_\_

Date Rec'd: 4/14 Total Due 615.53  
 Reviewed By: [Signature]  
 Dept Approval: [Signature]

Bill To:  
 City of Ramsey  
 Attn: Accounts Payable  
 7550 Sunwood Drive NW  
 Ramsey, MN 55303

DESCRIPTION	AMOUNT
Management Fee-6745 Highway 10, Ramsey, MN 55303	400.00
Light bulbs purchased from VOSS LIGHTING	215.53

Make all checks payable to: Premier Commercial Properties, Inc.  
If you have any questions concerning this invoice, please contact Marty Fisher.

**Total** \$615.53

**Balance Due** \$615.53



# INVOICE

DATE: 8/31/2009\*

INVOICE #: 2087

**Premier Commercial Properties, Inc**  
*A Real Estate Services Company*

6897 139th Lane NW  
 Ramsey, MN 55303

Phone 763.862.2005 Fax 763.862.1925

Bill To:

City of Ramsey  
 Attn: Sean Sullivan  
 7550 Sunwood Drive NW  
 Ramsey, MN 55303

DESCRIPTION	AMOUNT
Management Fee-6701 Highway 10, Ramsey, MN 55303	400.00
Home Depot Reimbursement - Toilet repair	7.50
Apache Lock & Key Reimbursement - latchguards on doors	112.15
Johnstone Supply Reimbursement - filters	51.42
<b>Vendor #</b> <u>946-6365</u> <b>Total Due:</b> <u>571.07</u> 107978	
<del>425 00</del>	
<b>Date Rec'd:</b> <u>10/16</u>	
<b>Reviewed By:</b> <u>[Signature]</u>	
<b>Dept Approval:</b> <u>[Signature]</u>	

**Total** \$571.07

**Balance Due** \$571.07

Make all checks payable to: Premier Commercial Properties, Inc.  
 If you have any questions concerning this invoice, please contact Marty Fisher.