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MISSION WEST PROPERTIES INC
Form 10-Q
November 06, 2008

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

Form 10-Q

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE
SECURITIES EXCHANGE ACT OF 1934

FOR THE QUARTERLY PERIOD ENDED SEPTEMBER 30, 2008

COMMISSION FILE NUMBER 1-8383

Mission West Properties, Inc.
(Exact name of registrant as specified in its charter)

Maryland

95-2635431

(State or other jurisdiction of
incorporation or organization)

(I.R.S. Employer Identification Number)

10050 Bandley Drive
Cupertino, California 95014-2188
(Address of principal executive offices)

(408) 725-0700
(Registrant's telephone number, including area code)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. YES NO

Indicate by check mark whether the Registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer Accelerated filer Non-accelerated filer Smaller reporting company

Indicate by check mark whether the registrant is a shell company (as defined in Exchange Act Rule 12b-2). Yes No

APPLICABLE ONLY TO CORPORATE ISSUERS

Indicate the number of shares outstanding of each of the issuer's classes of common stock as of the latest practicable date:

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19,748,211 shares outstanding as of October 31, 2008

MISSION WEST PROPERTIES, INC.

FORM 10-Q
FOR THE QUARTER ENDED SEPTEMBER 30, 2008

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Exhibit 32 - Certification of CEO and CFO Pursuant to 18 U.S.C. ss.

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1350, as Adopted Pursuant to ss. 906 of the
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PART I - Financial Information
ITEM 1. Condensed Consolidated Financial Statements

MISSION WEST PROPERTIES, INC.
CONDENSED CONSOLIDATED BALANCE SHEETS
(dollars in thousands, except share and per share amounts)

| | September 30, 2012 |
|--|--------------------|
| | (unaudited) |
| ASSETS | |
| Investments in real estate: | |
| Land | \$ 320,911 |
| Buildings and improvements | 796,638 |
| Real estate related intangible assets | 3,240 |
| Total investments in properties | 1,120,789 |
| Accumulated depreciation and amortization | (173,883) |
| Net investments in properties | 946,906 |
| Investment in unconsolidated joint venture | 2,301 |
| Net investments in real estate | 949,207 |
| Cash and cash equivalents | - |
| Restricted cash | 43,275 |
| Deferred rent | 17,277 |
| Other assets, net | 29,245 |
| Total assets | \$1,039,004 |
| LIABILITIES AND STOCKHOLDERS' EQUITY | |
| Liabilities: | |
| Mortgage notes payable | \$ 329,188 |
| Mortgage note payable (related parties) | 8,880 |
| Note payable (related parties) | 7,821 |
| Revolving line of credit | 11,911 |
| Interest payable | 1,336 |
| Security deposits | 5,627 |
| Deferred rental income | 6,026 |
| Dividends and distributions payable | 21,055 |
| Accounts payable and accrued expenses | 20,607 |
| Total liabilities | 412,451 |
| Commitments and contingencies (Note 9) | |
| Minority interests in operating partnerships | 493,632 |

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| | |
|--|-------------|
| Stockholders' equity: | |
| Preferred stock, \$.001 par value, 20,000,000 shares authorized, none issued and outstanding | - |
| Common stock, \$.001 par value, 200,000,000 shares authorized, 19,748,211 and 19,664,087 shares issued and outstanding at September 30, 2008 and December 31, 2007 | 20 |
| Additional paid-in capital | 154,223 |
| Distributions in excess of accumulated earnings | (21,322) |
| | ----- |
| Total stockholders' equity | 132,921 |
| | ----- |
| Total liabilities and stockholders' equity | \$1,039,004 |
| | ===== |

The accompanying notes are an integral part of these condensed consolidated financial statements.

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MISSION WEST PROPERTIES, INC
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS
(dollars in thousands, except share and per share amounts)
(unaudited)

| | Three months ended September 30, | |
|---|----------------------------------|----------|
| | 2008 | 2007 |
| | ----- | ----- |
| Operating revenues: | | |
| Rental revenue from real estate | \$20,256 | \$19,000 |
| Above market lease intangible asset amortization | - | - |
| Tenant reimbursements | 4,607 | 3,454 |
| Lease termination and settlement income | - | 47,238 |
| Other income | 292 | 1,144 |
| | ----- | ----- |
| Total operating revenues | 25,155 | 70,836 |
| | ----- | ----- |
| Operating expenses: | | |
| Property operating, maintenance and real estate taxes | 5,839 | 6,228 |
| General and administrative | 605 | 982 |
| Depreciation and amortization of real estate | 5,759 | 5,533 |
| | ----- | ----- |
| Total operating expenses | 12,203 | 12,743 |
| | ----- | ----- |
| Operating income | 12,952 | 58,093 |
| Other income (expenses): | | |
| Equity in earnings of unconsolidated joint venture | 126 | 371 |
| Interest income | 193 | 751 |
| Interest expense | (5,023) | (5,061) |
| Interest expense - related parties | (309) | (180) |

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| | | |
|---|------------|------------|
| Income from continuing operations before minority interests | 7,939 | 53,974 |
| Minority interests from continuing operations | (6,304) | (43,153) |
| Income from continuing operations | 1,635 | 10,821 |
| Discontinued operations, net of minority interests: | | |
| Gain from disposal of discontinued operations | - | 1,127 |
| Income attributable to discontinued operations | - | (7) |
| Income from discontinued operations | - | 1,120 |
| Net income to common stockholders | \$1,635 | \$11,941 |
| Net income to minority interests | \$6,304 | \$48,550 |
| Income per common share from continuing operations: | | |
| Basic | \$0.08 | \$0.55 |
| Diluted | \$0.08 | \$0.54 |
| Income per common share from discontinued operations: | | |
| Basic | - | \$0.06 |
| Diluted | - | \$0.06 |
| Net income per common share to common stockholders: | | |
| Basic | \$0.08 | \$0.61 |
| Diluted | \$0.08 | \$0.60 |
| Weighted average shares of common stock outstanding (basic) | 19,745,141 | 19,640,087 |
| Weighted average shares of common stock outstanding (diluted) | 19,783,507 | 19,818,806 |

The accompanying notes are an integral part of these condensed consolidated financial statements.

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MISSION WEST PROPERTIES, INC.
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(dollars in thousands)
(unaudited)

Cash flows from operating activities:

Net income

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Adjustments to reconcile net income to net cash provided by operating activities:

Minority interests income
Minority interest distributions
Depreciation and amortization of real estate and in-place leases
Amortization of acquired above market lease
Gain from disposal of properties classified as discontinued operations
Equity in earnings of unconsolidated joint venture
Distributions from unconsolidated joint venture
Interest earned on restricted cash
Lease termination fee related to restricted cash
Stock-based compensation expense
Other

Changes in operating assets and liabilities:

Deferred rent
Other assets
Interest payable
Security deposits
Deferred rental income
Accounts payable and accrued expenses

Net cash provided by operating activities

Cash flows from investing activities:

Improvements to real estate assets
Proceeds from sale of real estate
Restricted cash held in escrow
Purchase of real estate
Restricted cash released for purchase of real estate
Excess restricted cash

Net cash used in investing activities

Cash flows from financing activities:

Principal payments on mortgage notes payable
Principal payments on mortgage note payable (related parties)
Proceeds from real estate purchase financing (related parties)
Payments on real estate purchase financing (related parties)
Proceeds from note payable (related parties)
Payment on note payable (related parties)
Proceeds from line of credit
Payment of loan fees and costs
Proceeds from exercise of stock options
Minority interest distributions in excess of earnings
Dividends paid to common stockholders

Net cash used in financing activities

Net (decrease) increase in cash and cash equivalents
Cash and cash equivalents, beginning of period

Cash and cash equivalents, end of period

Supplemental information:

Cash paid for interest

Supplemental schedule of non-cash investing and financing activities:

Debt from seller in connection with real estate purchase (related parties)

Issuance of common stock upon conversion of O.P. units

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Issuance of operating partnership units in connection with property acquisition

The accompanying notes are an integral part of these condensed consolidated financial statements.

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MISSION WEST PROPERTIES, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

(dollars in thousands, except per share and per square footage)
(unaudited)

1. ORGANIZATION AND FORMATION OF THE COMPANY

Mission West Properties, Inc. (the "Company") is a fully integrated, self-administered and self-managed real estate company that acquires and manages research and development ("R&D")/office properties in the portion of the San Francisco Bay Area commonly referred to as Silicon Valley. In July 1998, the Company purchased an approximate 12.11% of four existing limited partnerships (referred to collectively as the "operating partnerships") and obtained control of these partnerships by becoming the sole general partner in each one effective July 1, 1998 for financial accounting and reporting purposes. All limited partnership interests in the operating partnerships were converted into 59,479,633 operating partnership ("O.P.") units, which represented a limited partnership ownership interest of approximately 87.89% of the operating partnerships. The operating partnerships are the vehicles through which the Company holds its real estate investments, makes real estate acquisitions, and generally conducts its business.

On December 30, 1998, the Company was reincorporated under the laws of the State of Maryland through a merger with and into Mission West Properties, Inc. Accordingly, shares of the former company, Mission West Properties, a California corporation (no par), which were outstanding at December 30, 1998, were converted into shares of common stock, \$.001 par value per share, on a one-for-one basis.

As of September 30, 2008, the Company owns a controlling general partnership interest of 19.98%, 21.81%, 16.28% and 12.50% in Mission West Properties, L.P., Mission West Properties, L.P. I, Mission West Properties, L.P. II and Mission West Properties, L.P. III, respectively, which represents an 18.72% general partnership interest in the operating partnerships, taken as a whole, on a consolidated weighted average basis.

Through the operating partnerships, the Company owns interests in 111 R&D/office properties, all of which are located in the Silicon Valley.

The Company has elected to be taxed as a real estate investment trust ("REIT") under the Internal Revenue Code of 1986, as amended. Accordingly, no provision has been made for income taxes for the three and nine months ended September 30, 2008 and 2007.

BUSINESS SEGMENT INFORMATION

The Company's primary business is the ownership and management of R&D/office real estate with a geographic concentration in the Silicon Valley of the San Francisco Bay Area. Accordingly, the Company has concluded it currently has a single reportable segment for Statement of Financial Accounting Standards ("SFAS") No. 131, "Disclosures about

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Segments of an Enterprise and Related Information," purposes.

2. BASIS OF PRESENTATION

PRINCIPLES OF CONSOLIDATION AND BASIS OF PRESENTATION

The accompanying unaudited interim condensed consolidated financial statements of the Company have been prepared in accordance with Rule 10-01 of Regulation S-X promulgated by the Securities and Exchange Commission ("SEC") and, therefore, do not include all information and footnotes necessary for a fair presentation of financial position, results of operations and cash flows in conformity with accounting principles generally accepted in the United States of America. In the opinion of the Company, however, the accompanying unaudited interim condensed consolidated financial statements contain all adjustments, consisting only of normal recurring adjustments, necessary to present fairly the Company's consolidated financial position as of September 30, 2008, their consolidated results of operations for the three and nine months ended September 30, 2008 and 2007, and their cash flows for the nine months ended September 30, 2008 and 2007. All significant inter-company balances have been eliminated in consolidation. The condensed consolidated financial statements as of September 30, 2008 and for the three and nine months ended September 30, 2008 and 2007 and related footnote disclosures are unaudited. The results of operations for the three and nine months ended September 30, 2008 are not necessarily indicative of the results to be expected for the entire year.

The December 31, 2007 condensed consolidated balance sheet data was derived from audited financial statements, but does not include all disclosures required by accounting principles generally accepted in the United States of America.

The Company consolidates all variable interest entities ("VIE") in which it is deemed to be the primary beneficiary in accordance with FASB Interpretation No. 46R, "Consolidation of Variable Interest Entities" ("FIN 46R"). As of September 30, 2008, the Company consolidated one VIE in the accompanying condensed consolidated balance sheets in connection with an assignment of a lease agreement with an unrelated party, M&M Real Estate Control & Restructuring, LLC. See Note 3 for further discussion of this transaction.

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MISSION WEST PROPERTIES, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS, CONTINUED

(dollars in thousands, except per share and per square footage)

(unaudited)

STOCK-BASED OPTION COMPENSATION ACCOUNTING

The FASB issued SFAS No. 123R, "Share-Based Payment" ("SFAS 123R"), which addresses the accounting for stock options. SFAS 123R requires that the cost of all employee, director and consultant stock options, as well as other equity-based compensation arrangements, be reflected in the financial statements based on the estimated fair value of the awards. SFAS 123R is an amendment to SFAS 123, "Accounting for Stock-Based Compensation," and supersedes Accounting Principles Board Opinion No. 25, "Accounting for Stock Issued to Employees" ("APB 25"). SFAS 123R is applicable to any award that is settled or measured in stock, including stock options, restricted stock, stock appreciation rights, stock units, and employee stock purchase plans. At September 30, 2008, the Company had one stock-based compensation

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plan. The Company adopted the requirements of SFAS 123R effective January 1, 2006 using the modified prospective method of transition. The adoption of this standard did not have a material effect on the Company's condensed consolidated statements of operations, cash flows or financial position.

In the third quarter of 2008, stock options to purchase 52,500 shares of common stock were granted to one employee and one non-employee director, which options vest monthly for 48 months from date of grant, subject to continued employment or other services to the Company. Each option grant has a term of six years from the date of grant, subject to earlier termination in certain events related to termination of employment or services to the Company. The options were granted at an exercise price of \$11.36 per share. The estimated fair value of the options granted in the third quarter of 2008 was \$0.99 per share on the date of grant using the Black-Scholes option pricing model with the following assumptions: dividend yield of 7.04%, volatility of 22.07%, risk free rates of 3.20% and an expected life of six years. All options were granted at the fair market value at the date of grant.

In the third quarter of 2008, options to purchase 33,696 shares held by a former employee of the Company lapsed without exercise.

The following table shows the activity and detail for the 2004 Equity Incentive Plan.

| | 2004 Equity Incentive Plan | Weighted Average Option Price Per Share |
|-----------------------------|-------------------------------|---|
| | ----- | ----- |
| Balance, December 31, 2007 | 1,747,100 | \$11.13 |
| Options granted | 1,077,500 | \$ 9.60 |
| Options exercised | (77,154) | \$ 9.96 |
| Options forfeited | (119,946) | \$10.81 |
| | ----- | |
| Balance, September 30, 2008 | 2,627,500 | \$10.55 |
| | ===== | |

The Company measures compensation cost for its stock options at fair value on the date of grant and recognizes compensation expense relating to the remaining unvested portion of outstanding stock options at the time of adoption ratably over the vesting period, generally four years. The fair value of the Company's stock options is determined using the Black-Scholes option pricing model. Compensation expense related to the Company's share-based awards is included in general and administrative expenses in the Company's accompanying condensed consolidated statements of operations. Under SFAS 123R, the Company recorded approximately \$122 and \$157 of expense for the three months ended September 30, 2008 and 2007, respectively, and approximately \$364 and \$472 for share-based compensation relating to grants of stock options for the nine months ended September 30, 2008 and 2007, respectively.

As of September 30, 2008, the total amount of unrecognized compensation cost related to unvested share-based compensation arrangements granted under the compensation plan was approximately \$594. This cost is expected to be recognized over a weighted-average period of 2.81 years.

MINORITY INTERESTS

Minority interests represent the separate private ownership of the

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operating partnerships by the Berg Group (defined as Carl E. Berg, his brother Clyde J. Berg, members of their respective immediate families, and certain entities they control) and other non-affiliate interests. As of September 30, 2008, these interests accounted for approximately 81.3% of the ownership interests in the real estate operations of the Company on a consolidated weighted average basis. The amount of minority interests in net income is calculated by taking the net income of the operating partnerships (on a stand-alone basis) multiplied by the respective weighted average minority interests ownership percentage.

Allocation of corporate general and administrative expenses to the operating partnerships is performed based upon shares and operating partnership units outstanding for each operating partnership in relation to the total for all four operating partnerships.

RECLASSIFICATIONS

Certain reclassifications have been made to the previously reported 2007 condensed consolidated financial statements in order to conform to the 2008 presentation.

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MISSION WEST PROPERTIES, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS, CONTINUED

(dollars in thousands, except per share and per square footage)
(unaudited)

The following notes, which present interim disclosures as required by the SEC, highlight significant changes to the notes to the Company's December 31, 2007 audited consolidated financial statements and should be read together with the consolidated financial statements and notes thereto included in the Company's 2007 Annual Report on Form 10-K filed on March 14, 2008.

ACCOUNTING PRONOUNCEMENTS

In September 2006, the FASB issued SFAS 157, "Fair Value Measurements" ("SFAS 157"). SFAS 157 defines fair value, establishes a framework for measuring fair value and expands disclosures about fair value measurements. SFAS 157 applies under other accounting pronouncements that require or permit fair value measurements. Accordingly, this statement does not require any new fair value measurements. This guidance was issued to increase consistency and comparability in fair value measurements and to expand disclosures about fair value measurements. SFAS establishes and requires disclosure of fair value hierarchy that distinguishes between data obtained from sources independent of the reporting entity and the reporting entity's own assumptions about market participant assumptions. The three levels of hierarchy are 1) using quoted prices in active markets for identical assets and liabilities, 2) "significant other observable inputs" and 3) "significant unobservable inputs". "Significant other observable inputs" can include quoted prices for similar assets or liabilities in active markets, as well as inputs that are observable for the asset or liability, such as interest rates, foreign exchange rates and yield curves that are observable at commonly quoted intervals. "Significant unobservable inputs" are typically based on an entity's own assumptions, as there is little, if any, related market activity. SFAS 157 is effective for financial statements issued for fiscal years beginning after November 15, 2007. Adoption on January 1, 2008 did not have a material effect on the Company's consolidated financial statements. The FASB has approved a one-year deferral for the implementation of the statement for non-financial assets and non-financial liabilities that are recognized or disclosed at fair value in the financial statements on a nonrecurring basis. The Company

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believes that the impact of these items will not be material to its consolidated financial statements.

In February 2007, the FASB issued SFAS 159, "The Fair Value Option for Financial Assets and Financial Liabilities" ("SFAS 159"). SFAS 159 provides companies with an option to report selected financial assets and liabilities at fair value. SFAS 159's objective is to reduce both complexity in accounting for financial instruments and the volatility in earnings caused by measuring related assets and liabilities differently. SFAS 159 is effective for financial statements issued for fiscal years beginning after November 15, 2007. The Company adopted SFAS 159 on a prospective basis on January 1, 2008. The implementation of SFAS 159 did not have a material impact on the Company's consolidated financial statements.

In December 2007, the FASB issued SFAS 141 (Revised 2007), "Business Combinations" ("SFAS 141R"). SFAS 141R will change the accounting for business combinations. Under SFAS 141R, an acquiring entity will be required to recognize all the assets acquired and liabilities assumed in a transaction at the acquisition date fair value with limited exceptions. SFAS 141R will change the accounting treatment and disclosure for certain specific items in a business combination. SFAS 141R requires that acquisition-related costs and restructuring costs be recognized separately from the business combination and expensed as incurred. SFAS 141R applies prospectively to business combinations for which the acquisition date is on or after the beginning of the first annual reporting period beginning on or after December 15, 2008. Early adoption is prohibited. The Company is currently evaluating the impact SFAS 141R will have on its consolidated financial statements.

In December 2007, the FASB issued SFAS 160, "Noncontrolling Interests in Consolidated Financial Statements" ("SFAS 160"). SFAS 160 requires that noncontrolling interests be presented as a component of consolidated stockholders' equity, eliminates "minority interest accounting" such that the amount of net income attributable to the noncontrolling interests will be presented as part of consolidated net income on the consolidated statement of operations and not as a separate component of income and expenses. SFAS 160 is effective for fiscal years beginning on or after December 15, 2008. Early adoption is prohibited. The Company is currently evaluating the impact SFAS 160 will have on its consolidated financial statements.

3. VARIABLE INTEREST ENTITY

Under FIN 46R, a variable interest entity must be consolidated by a company if it is subject to a majority of the entity's expected losses or is entitled to receive a majority of the entity's expected residual returns or both. In addition, FIN 46R requires disclosures about variable interest entities that a company is not required to consolidate, but in which it has a significant variable interest.

Under FIN 46R, for an entity to qualify as a VIE one or more of the following three characteristics must exist:

1. The equity investment at risk is not sufficient to permit the entity to finance its activities without additional subordinated financial support by any parties, including the equity holders.
2. The equity investors lack one or more of the following essential characteristics of a controlling financial interest:
 - a. The direct or indirect ability to make decisions about the entity's activities through voting or similar rights.

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- b. The obligation to absorb the expected loss of the entity.
- c. The right to receive the expected residual returns of the entity.

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MISSION WEST PROPERTIES, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS, CONTINUED
(dollars in thousands, except per share and per square footage)
(unaudited)

3. The equity investors have voting rights that are not proportionate to their economic interests, and the activities of the entity involve or are conducted on behalf of an investor with a disproportionately small voting interest.

In August 2007, one of the Company's tenants, Ciena, entered into an assignment of lease agreement with an unrelated party, M&M Real Estate Control & Restructuring, LLC ("M&M"), in connection with leases for approximately 445,000 rentable square feet located in San Jose, California. As a result of the Assignment, M&M assumed all of Ciena's remaining obligations under these leases and received a payment from Ciena of \$53,000, of which \$7,000 was reserved for tenant improvements. At the same time, the Company entered into a consent for assignment of lease with both parties and a mutual release agreement with Ciena, pursuant to which all of Ciena's obligations under these leases were effectively transferred to M&M. M&M is obligated to continue to perform all of the obligations under the assumed Ciena leases and has the right to sublease any or all of the 445,000 rentable square feet vacated by Ciena for the remainder of the current lease term, which expire in 2011. Under the terms of the assignment of lease agreement, the Company received monthly rent payments of approximately \$789 from July 2007 through June 2008, is receiving \$818 from July 2008 through June 2009, will receive \$849 from July 2009 through June 2010, \$881 from July 2010 through June 2011 and \$915 from July 2011 through December 2011. Based upon the provisions of FIN 46R, the Company determined that M&M is a variable interest entity. The Company further determined that it is the primary beneficiary of this variable interest entity, and therefore has consolidated this entity for financial reporting purposes. Upon consolidation, the Company recognized a gross lease termination fee of \$46,000 in August 2007.

Factors considered by the Company in determining whether M&M should be considered a VIE for financial reporting purposes included the following:

- No equity was contributed by the partners in the formation of M&M.
- At present, the assigned leases are the only properties under management by M&M.
- M&M does not have an operating history that demonstrates its ability to finance its activities without additional subordinated financial support.
- All revenues, other than interest income, are generated by M&M from the Company in the form of fees or commissions.

The Company remains at risk with respect to the assigned leases because if M&M's operating expenses exceed its interest income, fees and commissions there would be insufficient funds to meet the assigned lease obligation without additional financial support from equity holders or other parties. The Company, which had released the original tenants from its obligations under the leases, would have to absorb the majority of any loss, making it the primary beneficiary of M&M's activities.

4. RESTRICTED CASH

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Restricted cash totaled approximately \$43,275 as of September 30, 2008. Of this amount, approximately \$41,775 represents cash held by M&M Real Estate Control & Restructuring, LLC, a consolidated variable interest entity, or VIE. The Company does not have possession or control over these funds or any right to receive them except in accordance with the payment terms of the lease agreement that has been assigned to the VIE. The balance of the restricted cash is a \$1,500 certificate of deposit held by Prudential Mortgage Capital Company ("Prudential") as collateral securing the Company's mortgage loan. The certificate of deposit was provided by the Company in the third quarter of 2007 to replace two buildings sold by the Company that previously served as collateral. Prudential returned the funds, plus interest, to the Company in October 2008 after the mortgage loan was fully paid off.

5. STOCK TRANSACTIONS

During the nine months ended September 30, 2008, stock options to purchase 70,487 and 6,667 shares of common stock were exercised at \$10.00 and \$9.51 per share, respectively. Total proceeds to the Company were approximately \$768. During the same period, three limited partners exchanged a total of 6,970 O.P. units for 6,970 shares of the Company's common stock under the terms of the Exchange Rights Agreement among the Company and all limited partners of the operating partnerships resulting in a reclassification of approximately \$66 from minority interests to additional paid-in capital. Neither the Company nor the operating partnerships received any proceeds from the issuance of the common stock in exchange for O.P. units.

6. DISCONTINUED OPERATIONS

The Company adopted SFAS No. 144, "Accounting for the Impairment or Disposal of Long-Lived Assets" ("SFAS 144"), which addresses financial accounting and reporting for the impairment and disposal of long lived assets. In general, income or loss attributable to the operations and sale of property and the operations related to property held for sale is classified as discontinued operations in the condensed consolidated statements of operations. Prior period condensed consolidated statements of operations presented in this report have been reclassified to reflect the income or loss related to properties that were sold and presented as

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MISSION WEST PROPERTIES, INC.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS, CONTINUED
(dollars in thousands, except per share and per square footage)
(unaudited)

discontinued operations in 2007. All periods presented in this report will likely require further reclassification in future periods if there are properties held for sale or property sales occur.

In the third quarter of 2007, the Company sold two R&D properties that qualified as discontinued operations. Condensed results of operations for these properties for the three and nine months ended September 30, 2007 are as follows:

| | Three Months Ended September 30, | Nin |
|--|----------------------------------|-------|
| | ----- | ----- |
| | 2008 | 2007 |

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| | ----- | ----- | ----- |
|---|-------|---------|------------------------|
| | | | (dollars in thousands) |
| | | | (unaudited) |
| Discontinued operating revenues: | | | |
| Rental revenue from real estate | - | \$118 | |
| Tenant reimbursements | - | 56 | |
| Other income | - | 1 | |
| | ----- | ----- | |
| Total discontinued operating revenues | - | 175 | |
| | ----- | ----- | |
| Discontinued operating expenses: | | | |
| Operating, maintenance and real estate taxes | - | 150 | |
| Depreciation of real estate | - | 35 | |
| | ----- | ----- | |
| Total discontinued operating expenses | - | 185 | |
| | ----- | ----- | |
| Discontinued operating (loss) income | - | (10) | |
| | ----- | ----- | |
| Discontinued operating other expenses: | | | |
| Interest expense | - | (1) | |
| | ----- | ----- | |
| (Loss) income from discontinued operations before minority interests | - | (11) | |
| Gain from disposal of discontinued operations | - | 6,529 | |
| Minority interest in earnings attributable to discontinued operations | - | (5,398) | |
| | ----- | ----- | |
| Income from discontinued operations | - | \$1,120 | |
| | ===== | ===== | |

7. NET INCOME PER SHARE

Basic operating net income per share is computed by dividing net income by the weighted average number of common shares outstanding for the period. Diluted operating net income per share is computed by dividing net income by the sum of the weighted-average number of common shares outstanding for the period plus the assumed exercise of all dilutive securities using the treasury stock method.

The computation for weighted average shares is detailed below:

| | Three Months Ended September 30, | | |
|---|----------------------------------|------------|---|
| | ----- | ----- | |
| | 2008 | 2007 | |
| | ----- | ----- | |
| Weighted average shares outstanding (basic) | 19,745,141 | 19,640,087 | 1 |
| Incremental shares from assumed option exercise | 38,366 | 178,719 | |
| | ----- | ----- | |
| Weighted average shares outstanding (diluted) | 19,783,507 | 19,818,806 | 1 |
| | ===== | ===== | |

At September 30, 2008, outstanding options to purchase 1,667,500 and 1,077,500 shares of common stock were excluded from the computation of diluted net income per share under the treasury stock method for the three

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and nine months ended September 30, 2008, respectively, because the option exercise price was greater than the weighted average closing price of the Company's common stock during the period. The outstanding O.P. units, which are exchangeable at the unit holder's option, subject to certain conditions, for shares of common stock on a one-for-one basis have been excluded from the diluted net income per share calculation, as there would be no effect on the calculation after adding the minority interests' share of income back to net income. The total number of O.P. units outstanding at September 30, 2008 and 2007 was 85,526,965 and 85,557,935, respectively.

8. RELATED PARTY TRANSACTIONS

As of September 30, 2008, the Berg Group owned 77,902,384 O.P. units. The Berg Group's combined ownership of O.P. units and shares of common stock as of September 30, 2008 represented approximately 74% of the total equity interests, assuming conversion of all O.P. units outstanding into the Company's common stock.

As of September 30, 2008, debt in the amount of approximately \$8,880 was due the Berg Group under a mortgage note established May 15, 2000 in connection with the acquisition of a 50% interest in Hellyer Avenue Limited Partnership, the obligor under the mortgage note. The mortgage note bears interest at 7.65% and is due in June 2010 with principal payments amortized over 20 years.

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MISSION WEST PROPERTIES, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS, CONTINUED
(dollars in thousands, except per share and per square footage)
(unaudited)

On October 1, 2008, the Company and the Berg Group agreed to extend the maturity due date to June 2013. Interest expense incurred in connection with the mortgage note was approximately \$171 and \$180 for the three months ended September 30, 2008 and 2007, respectively, and \$521 and \$546 for the nine months ended September 30, 2008 and 2007, respectively.

As of September 30, 2008, debt due the Berg Group under a short-term note payable established on January 1, 2008 in connection with the acquisition of 5981 Optical Court was fully paid off. The note payable bears interest at LIBOR plus 2% and was due September 30, 2008. Interest expense incurred in connection with the loan was approximately \$7 and \$361 for the three and nine months ended September 30, 2008, respectively.

As of September 30, 2008, debt in the amount of approximately \$7,821 was due the Berg Group under a short-term note payable established on July 3, 2008 in connection with the second quarter 2008 dividend distributions. The note payable bears interest at LIBOR plus 2% and was due September 30, 2008. In October 2008, the Company and the Berg Group entered into an agreement to extend the maturity due date to November 30, 2008. Interest expense incurred in connection with the loan was approximately \$132 for the three and nine months ended September 30, 2008.

During the first nine months of 2008 and 2007, Carl E. Berg or entities controlled by him held financial interests in several companies that lease space from the operating partnerships, which include companies where Mr. Berg has a greater than 10% ownership interest. These related tenants contributed approximately \$307 and \$361 in rental revenue for the three months ended September 30, 2008 and 2007, respectively, and \$921 and \$1,082 in rental revenue for the nine months ended September 30, 2008 and 2007, respectively.

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Under the Company's charter, bylaws and agreements with the Berg Group, the individual members of the Berg Group are prohibited from acquiring or holding shares of the Company's common stock if such acquisition would result in their beneficial ownership percentage of the Company's common stock causing the Company to violate any REIT qualification requirement. Currently their share ownership is below a level at which rent from related tenants would be excluded in determining compliance with REIT qualification tests.

The Berg Group has an approximately \$2,500 commitment to complete certain tenant improvements in connection with the Company's 2002 acquisition of 5345 Hellyer Avenue in San Jose. The Company has recorded this portion of the purchase price paid to the Berg Group in "Other assets" on its condensed consolidated balance sheets. The Berg Group is in the process of satisfying this commitment to complete certain tenant improvements.

The Berg Group has an approximately \$7,500 commitment to complete an approximately 75,000 to 90,000 square foot building in connection with the Company's 2001 acquisition of 245 Caspian in Sunnyvale which is comprised of approximately three acres of unimproved land. The Company has recorded this portion of the purchase price paid to the Berg Group in "Other assets" on its condensed consolidated balance sheets. The Berg Group plans to satisfy this commitment to construct a building when requested by the Company following the approval of the Independent Directors Committee.

The Company currently leases office space owned by Berg & Berg Enterprises for the Company's headquarters. Rental amounts and overhead reimbursements paid to Berg & Berg Enterprises were approximately \$30 and \$24 for the three months ended September 30, 2008 and 2007, respectively, and \$84 and \$71 for the nine months ended September 30, 2008 and 2007, respectively.

9. COMMITMENTS AND CONTINGENCIES

Neither the operating partnerships, the Company's properties nor the Company are subject to any material litigation nor, to the Company's knowledge, is any material litigation threatened against the operating partnerships, the properties or the Company. From time to time, the Company is engaged in legal proceedings arising in the ordinary course of business. The Company does not expect any of such proceedings to have a material adverse effect on its cash flows, financial condition or results of operations. The Company is currently involved in the following legal proceedings and it believes that the ultimate outcome of these proceedings will not have a material adverse effect on its operating results, cash flows or financial condition.

Mission West Properties, L.P. v. Republic Properties Corporation, et al. Santa Clara County Superior Court, Case No. CV 796249. Republic Properties Corporation ("RPC") is a former 50% partner with Mission West Properties, L.P. in the Hellyer Avenue Limited Partnership ("Hellyer LP"), which was formed in July 2000. Under the terms of the Hellyer LP partnership agreement and other related contracts, Mission West Properties, L.P. ("MWP") had the right to obtain RPC's entire interest in Hellyer LP in the event of certain payment defaults which occurred in August 2000. Therefore, on September 1, 2000, MWP, as the general partner of Hellyer LP, ceased all allocations of income and cash flow to RPC and exercised its right under the partnership agreement to cancel RPC's entire interest in the partnership. Following discussions with and approval by the Independent Directors Committee, the Company authorized the transfer of RPC's interest in Hellyer LP to Berg & Berg Enterprises, Inc. ("BBE"). Under the Berg Land Holdings Option Agreement and the Acquisition Agreement dated as of May 14, 1998, the Company acting through the Independent

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MISSION WEST PROPERTIES, INC.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS, CONTINUED
(dollars in thousands, except per share and per square footage)
(unaudited)

Directors Committee had the right, but not the obligation, to reacquire the property interest and the related distributions related to the property interest at any time. The transfer was effective as of September 1, 2000. On November 20, 2000, RPC commenced a lawsuit against MWP in the Circuit Court of Maryland for Baltimore City. After lengthy litigation, which included a trial on the merits and subsequent appeals, in April 2006, Maryland's highest court upheld an earlier Maryland Appeals Court ruling in favor of MWP, finding that the Circuit Court of Maryland could not assert personal jurisdiction over MWP in Maryland. The court vacated the judgment and decision in the trial court and dismissed the entire Maryland suit. In February 2001, while the Maryland case was pending, the Company filed a suit against RPC in the Superior Court of the State of California for the County of Santa Clara. The case was stayed pending resolution of the Maryland case, and the Company dismissed its suit on March 4, 2005. In April 2005, RPC submitted a motion asking the Superior Court to reinstate the case, which the Court granted on May 25, 2005. On July 5, 2006, RPC filed a cross-complaint in the case seeking partnership distributions to which the Company demurred. The Court sustained the Company's demurrer with leave to amend. Subsequently, RPC filed an amended complaint and the Company submitted another demurrer seeking dismissal of the claims on statute of limitations grounds. On February 20, 2007, the Court overruled the Company's demurrer. The Company sought a writ from the California State Court of Appeal for the Sixth District to direct the lower court to reverse its decision, but the petition for the writ was denied. In April 2008, the Company filed a motion for summary judgment in the California Superior Court which was denied. In October 2008, a motion filed by RPC for summary judgment in the California Superior Court was denied. A trial in the California Superior Court is scheduled to commence in late 2008.

Since the inception of Hellyer LP, the Company has accounted for the properties owned by the partnership on a consolidated basis, with reductions for the minority interest held by the minority partner (first RPC and then BBE). In each period, the Company has accrued amounts payable by Hellyer LP to the minority interest partner, including BBE prior to payment. BBE's share of earnings allocated to its 50% minority interest was approximately \$0.6 million in the first nine months of 2008 and 2007. As of September 30, 2008, accumulated cash flow distributions from Hellyer LP totaling approximately \$5.1 million were accrued and distributed to BBE. If the Company's litigation with RPC is ultimately decided in RPC's favor, the Company anticipates that BBE may be required to return RPC's former interest in Hellyer LP and all prior distributions to RPC. As a result of this uncertainty, in October 2003, the Company recorded such distributions as an account receivable from BBE, which is included in "Other assets" on the Company's consolidated balance sheets, with an offsetting account payable to BBE.

If the litigation is ultimately decided in favor of the Company, the Company acting through the Independent Directors Committee of the Board of Directors has the right, but not the obligation, to acquire the former RPC interest and related distributions from BBE under the terms of the Berg Land Holdings Option Agreement and the Acquisition Agreement.

GUARANTEES AND INDEMNITIES

Under its articles of incorporation and bylaws, the Company has agreed to

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indemnify its officers and directors for certain events or occurrences arising as a result of the officer or director's serving in such capacity. The maximum potential amount of future payments the Company could be required to make under these indemnification agreements is unlimited. The Company believes the estimated fair value of its obligations under these indemnification agreements is minimal and has recorded no liabilities for these agreements as of September 30, 2008.

The Company also enters into indemnification provisions under its agreements with other companies in the ordinary course of business, typically with lenders, joint venture partners, contractors, and tenants. Under these provisions the Company typically agrees to indemnify and hold harmless the indemnified party for losses suffered or incurred by the indemnified party as a result of certain kinds of activities or inactions of the Company. These indemnification provisions generally survive termination of the underlying agreement. The maximum potential amount of future payments the Company could be required to make under these indemnification provisions is unlimited. To date, the Company has not incurred material costs to defend lawsuits or settle claims related to these indemnification agreements. As a result, the Company believes the estimated fair value of these agreements is minimal. Accordingly, the Company has recorded no liabilities for these agreements as of September 30, 2008.

SEISMIC ACTIVITY

The Company's properties are located in an active seismic area of Silicon Valley. Insurance policies currently maintained by the Company do not cover seismic activity, although they do cover losses from fires after an earthquake.

ENVIRONMENTAL ISSUES

The environmental investigations that have been conducted on the Company's properties have not revealed any environmental liability that the Company believes would have a material adverse effect on its financial condition, results of operations and assets, and the Company is not aware of any such liability. Nonetheless, it is possible that there are material environmental liabilities of which the Company is unaware. In addition, the Company cannot assure that future laws, ordinances, or regulations will not impose any material environmental liability, or that the current environmental condition of the properties has not been, or will not be, affected by tenants and occupants of the properties, by the condition of properties in the vicinity of the properties, or by third parties unrelated to the Company.

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MISSION WEST PROPERTIES, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS, CONTINUED
(dollars in thousands, except per share and per square footage)
(unaudited)

ASSET DISPOSITIONS SUBJECT TO CERTAIN CONDITIONS

The Company has entered into sales agreements with unrelated parties subject to numerous material conditions, including but not limited to re-zoning of the property and negotiating certain agreements with the local municipality acceptable to the buyer. As a result of the conditions agreed to by the Company and the respective buyers, these assets do not meet the criteria set forth in SFAS 144 to be classified as assets held for sale. The following summarizes the assets for which the Company has an executed sales contract as of September 30, 2008 that is subject to such material conditions:

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| Property ----- | Number of Buildings ----- | Rentable Square Feet ----- | Acres ----- |
|--|------------------------------|-------------------------------|----------------|
| McCandless Drive Milpitas, California | 8 | 427,000 | 23.03 |

10. SUBSEQUENT EVENTS

On October 1, 2008, the Company entered into a fixed rate term agreement and related contracts and instruments for a secured mortgage loan totaling \$115,000 from Hartford Life Insurance Company, Hartford Life and Accident Insurance Company and Hartford Life and Annuity Insurance Company (the "Hartford Loan"). The proceeds were used primarily to repay the remaining balance of an existing mortgage loan with Prudential plus accrued interest and other short-term debt. The Hartford Loan bears a fixed interest rate of 6.21%, with a 20 year amortization, and matures October 1, 2018, at which time any outstanding principal and interest will be due. Pursuant to the loan agreement, monthly principal and interest installment payments of approximately \$838 are due on the first day of each month. The Hartford Loan is secured by 20 properties consisting of approximately 1.6 million rentable square feet. The Company paid approximately \$1,000 in loan fees and financing costs, which will be amortized over the ten year loan period.

On October 7, 2008, Prudential returned approximately \$1,560 to the Company, including interest, for a certificate of deposit ("CD") that served as collateral securing the Company's mortgage loan. The funds were provided by the Company in the third quarter of 2007 to replace two buildings sold by the Company that previously served as collateral. The \$1,500 CD was classified as restricted cash as of September 30, 2008.

On October 9, 2008, the Company paid dividends of \$0.20 per share of common stock to all common stockholders of record as of September 30, 2008. On the same date, the operating partnerships paid a distribution of \$0.20 per O.P. unit to all holders of O.P. units, with the exception of the Berg Group. Aggregate dividends and distributions amounted to approximately \$21,055.

On October 9, 2008, a short-term note payable in the amount of approximately \$15,760 was issued to the Berg Group in connection with the third quarter 2008 dividend distributions. The note payable bears interest at LIBOR plus 2% and is due November 30, 2008.

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ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

This Management's Discussion and Analysis of Financial Condition and Results of Operations should be read in conjunction with the accompanying condensed consolidated financial statements and notes thereto under Part I, Item 1 of this Report and our audited consolidated financial statements and notes thereto contained in our Annual Report on Form 10-K as of and for the year ended December 31, 2007. The results for the three and nine months ended September 30, 2008 are not necessarily indicative of the results to be expected for the entire fiscal year ending December 31, 2008.

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FORWARD-LOOKING INFORMATION

This quarterly report on Form 10-Q contains forward-looking statements within the meaning of the federal securities laws. We intend such forward-looking statements to be covered by the safe harbor provisions for forward-looking statements contained in the Private Securities Reform Act of 1995, and are including this statement for purposes of complying with these safe harbor provisions. Forward-looking statements, which are based on certain assumptions and describe future plans, strategies and expectations of the Company, are generally identifiable by use of the words "believe," "expect," "intend," "anticipate," "estimate," "project" or similar expressions. Additionally, all disclosures under Part I, Item 3 constitute forward-looking statements. Our ability to predict results or the actual effect of future plans or strategies is inherently uncertain.

Factors that could have a material adverse effect on our operations and future prospects or would cause actual results in the future to differ materially from any of our forward-looking statements include, but are not limited to, the following:

- the current turmoil in the credit markets could limit the demands for R&D space and affect the overall availability and cost of credit,
- economic conditions generally and the real estate market specifically,
- the occupancy rates of the properties,
- rental rates on new and renewed leases,
- legislative or regulatory provisions (including changes to laws governing the taxation of REITs),
- availability of capital,
- interest rates,
- competition,
- supply of and demand for R&D, office and industrial properties in our current and proposed market areas,
- tenant defaults and bankruptcies,
- lease term expirations and renewals,
- changes in general accounting principles, policies and guidelines applicable to REITs, and
- ability to timely refinance maturing debt obligations and the terms of any such refinancing.

These risks and uncertainties, together with the other risks described under Part I, Item 1A - "Risk Factors" of our 2007 Annual Report on Form 10-K and from time to time in our other reports and documents filed with the Securities and Exchange Commission ("SEC"), should be considered in evaluating forward-looking statements and undue reliance should not be placed on such statements.

OVERVIEW

We acquire, market, lease, and manage R&D/office properties, primarily located in the Silicon Valley portion of the San Francisco Bay Area. As of September 30, 2008, we owned and managed 111 properties totaling approximately 8.0 million rentable square feet through four limited partnerships, or operating partnerships, for which we are the sole general partner. This class of property is designed for research and development and office uses and, in some cases, includes space for light manufacturing operations with loading docks. We believe that we have one of the largest portfolios of R&D/office properties in the Silicon Valley. As of September 30, 2008, two tenants individually lease in excess of 300,000 rentable square feet from us: Microsoft Corporation and Apple, Inc.

For federal income tax purposes, we have operated as a self-managed, self-administered and fully integrated real estate investment trust ("REIT") since the beginning of fiscal 1999.

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Our acquisition, growth and operating strategy incorporates the following elements:

- working with the Berg Group to take advantage of their abilities and resources to pursue development opportunities which we have an option to acquire, on pre-negotiated terms, upon completion and leasing;
- capitalizing on opportunistic acquisitions from third parties of high-quality R&D/office properties that provide attractive initial yields and significant potential for growth in cash-flow;
- focusing on general purpose, single-tenant Silicon Valley R&D/office properties for information technology companies in order to maintain low operating costs, reduce tenant turnover and capitalize on our relationships with these companies and our extensive knowledge of their real estate needs; and

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- maintaining prudent financial management principles that emphasize current cash flow while building long-term value, the acquisition of pre-leased properties to reduce development and leasing risks and the maintenance of sufficient liquidity to acquire and finance properties on desirable terms.

CURRENT ECONOMIC ENVIRONMENT

In the third quarter of 2008, the overall U.S. economy weakened further, particularly the turmoil in the credit markets, the housing recession and growing unemployment. These factors have resulted in a considerable reduction in business spending. As credit requirements have tightened with many financial institutions, current tenants and prospective tenants may find it more difficult to obtain credit. In effect, this may decrease the stability of our current tenants' financial condition and limit our ability to lease spaces to credit worthy prospective tenants.

Given the current financial markets crisis and general economic conditions, there can be no assurances that our operating results will not continue to decrease. We have a strong balance sheet and have maintained one of the lowest levels of leverage in the REIT industry. The current crisis in the financial markets has resulted in de-leveraging throughout the global finance system. The displacement in the current financing market has resulted in a very difficult borrowing environment.

All of our properties are located in the Northern California area known as Silicon Valley, which generally consists of portions of Santa Clara County, Southwestern Alameda County, Southeastern San Mateo County and Eastern Santa Cruz County. Historically, the Silicon Valley R&D property market has fluctuated with the local economy. After fast-paced growth in 1999 and 2000, the Silicon Valley economy and business activity slowed markedly from 2001 through 2006 and have been growing slowly since then. According to a recent report by NAI BT Commercial Real Estate (the "BT Report"), the vacancy rate for Silicon Valley R&D property was approximately 16.6% in late 2007 and 15.8% at the end of the third quarter of 2008. Total vacant R&D square footage in Silicon Valley at the end of the third quarter of 2008 amounted to approximately 24.4 million square feet, of which 16.1%, or 3.9 million square feet, was being offered under subleases. According to the BT Report, total positive net absorption (which is the computation of gross square footage leased less gross new square footage vacated for the period presented) in 2007 amounted to approximately 3.5 million square feet, and in the first nine months of 2008 there was total positive net absorption of approximately 0.52 million square feet. Also according to the BT Report, the average asking market rent per square foot at the end of the third quarter of 2008 was \$1.27 compared with \$1.26 in late 2007. The Silicon Valley

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R&D property market is characterized by a substantial number of submarkets, with rent and vacancy rates varying by submarket and location within each submarket, however, and individual properties within any particular submarket presently may be leased above or below the current average asking market rental rates within that submarket and the region as a whole.

Our occupancy rate at September 30, 2008 was 66.7% compared with 62.6% at September 30, 2007. We believe that our occupancy rate could decline further if key tenants seek the protection of bankruptcy laws, consolidate operations or discontinue operations. In addition, leases with respect to approximately 141,000 and 588,000 rentable square feet are expiring prior to the end of 2008 and 2009, respectively. The properties subject to these leases may take anywhere from 24 to 36 months or longer to re-lease. We believe that the average 2008 renewal rental rates for our properties will be approximately equal to, or perhaps below, current market rents, but we cannot give any assurance that leases will be renewed or that available space will be re-leased at rental rates equal to or above the current quoted market rates.

Despite our strategic focus on single tenant properties and leases, in order to meet market conditions, we have been, and expect to continue leasing less than the entire premises of some of our R&D properties to a single tenant from time to time. Leasing our R&D properties, which generally have been built for single tenant occupancy, to multiple tenants can increase our leasing costs and operating expenses and reduce the profitability of our leasing activities.

If we are unable to lease a significant portion of any vacant space or space subject to expiring leases; if we experience significant tenant defaults as a result of the current economic downturn; if we are not able to lease space at or above current market rates; if we restructure existing leases and lower existing rents in order to retain tenants for an extended term; or if we increase our lease costs and operating expenses substantially to accommodate multiple tenants in our R&D properties, our results of operations and cash flows will be affected adversely. Furthermore, in this event it is probable that our board of directors will reduce the quarterly dividend on the common stock and the outstanding O.P. units. Our operating results and ability to pay dividends at current levels remain subject to a number of material risks, as indicated under the caption "Forward-Looking Information" above and in the section entitled "Risk Factors" in our most recent Annual Report on Form 10-K.

CRITICAL ACCOUNTING POLICIES AND ESTIMATES

We prepare the condensed consolidated financial statements in conformity with accounting principles generally accepted in the United States of America ("GAAP"), which requires us to make certain estimates, judgments and assumptions that affect the reported amounts in the accompanying condensed consolidated financial statements, disclosure of contingent assets and liabilities and related footnotes. Accounting and disclosure decisions with respect to material transactions that are subject to significant management judgments or estimates include impairment of long lived assets, deferred rent reserves, and allocation of purchase price relating to property acquisitions and the related depreciable lives assigned. Actual results may differ from these estimates under different assumptions or conditions.

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Critical accounting policies are defined as those that require management to make estimates, judgments and assumptions, giving due consideration to materiality, in certain circumstances that affect amounts reported in the condensed consolidated financial statements, and potentially result in materially different results under different conditions and assumptions. We

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believe that the following best describe our critical accounting policies:

BUSINESS COMBINATIONS. Statement of Financial Accounting Standards ("SFAS") No. 141, "Business Combinations" ("SFAS 141"), was effective July 1, 2001. The acquisition costs of each property acquired prior to July 1, 2001 were allocated only to building, land and leasing commissions with building depreciation being computed based on an estimated weighted average composite useful life of 40 years and leasing commission amortization being computed over the term of the lease. Acquisitions of properties made subsequent to the effective date of SFAS 141 are based on an allocation of the acquisition cost to land, building, tenant improvements, and intangibles for at market, including lease origination and lease up period costs, and above and below market in place leases, and the determination of their useful lives are guided by a combination of SFAS 141 and management's estimates. Amortization expense of above and below market lease intangible asset is offset against rental revenue in the revenue section while amortization of in-place lease value intangible asset is included in depreciation and amortization of real estate in the expense section of our condensed consolidated statements of operations. If we do not appropriately allocate these components or we incorrectly estimate the useful lives of these components, our computation of depreciation and amortization expense may not appropriately reflect the actual impact of these costs over future periods, which will affect net income.

IMPAIRMENT OF LONG-LIVED ASSETS. We review real estate assets for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable in accordance with SFAS No. 144, "Accounting for the Impairment and Disposal of Long-Lived Assets" ("SFAS 144"). If the carrying amount of the asset exceeds its estimated undiscounted net cash flow, before interest, we will recognize an impairment loss equal to the difference between its carrying amount and its estimated fair value. If impairment is recognized, the reduced carrying amount of the asset will be accounted for as its new cost. For a depreciable asset, the new cost will be depreciated over the asset's remaining useful life. Generally, fair values are estimated using discounted cash flow, replacement cost or market comparison analyses. The process of evaluating for impairment requires estimates as to future events and conditions, which are subject to varying market factors, such as the vacancy rates, future rental rates, lease periods, deferred maintenance and operating costs for R&D facilities in the Silicon Valley area and related submarkets. Therefore, it is reasonably possible that a change in estimate resulting from judgments as to future events could occur which would affect the recorded amounts of the property.

ALLOWANCE FOR DOUBTFUL ACCOUNTS AND DEFERRED RENT. We must estimate the uncollectibility of our accounts receivable based on the evaluation of our tenants' financial position, analyses of accounts receivable and current economic trends. We also make estimates for reserves against our deferred rent receivable for existing tenants with the potential of early termination, bankruptcy or ceasing operations. We charge or credit rental income for increases or decreases to our deferred rent reserves. Our estimates are based on our review of tenants' payment histories, the remaining lease term, whether or not the tenant is currently occupying our building, publicly available financial information and such additional information about their financial condition as tenants provide to us. The information available to us might lead us to overstate or understate these reserve amounts. The use of different estimates or assumptions could produce different results. Moreover, actual future collections of accounts receivable or reductions in future reported rental income due to tenant bankruptcies or other business failures could differ materially from our estimates.

CONSOLIDATED JOINT VENTURES. We, through an operating partnership, own three properties that are in joint ventures of which we have controlling interests. We manage and operate all three properties. We recognize these properties and 100%

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of their operating results in our condensed consolidated financial statements, with appropriate allocation to minority interests, because we have operational and financial control of the investments. We make judgments and assumptions about the estimated monthly payments made to our minority interest joint venture partners, which are reported with our periodic results of operations. Actual results may differ from these estimates under different assumptions or conditions.

INVESTMENT IN UNCONSOLIDATED JOINT VENTURE. We, through an operating partnership, have a 50% non-controlling limited partnership interest in one unconsolidated joint venture. This investment is not consolidated because we do not exercise significant control over major operating and financial decisions. We account for this joint venture interest using the equity method of accounting.

FAIR VALUE OF FINANCIAL INSTRUMENTS. Our financial instruments include cash and cash equivalents, accounts receivable, accounts payable, and debt. Considerable judgment is required in interpreting market data to develop estimates of fair value. Our estimates of fair value are not necessarily indicative of the amounts that we could realize in a current market exchange. The use of different market assumptions and/or estimation methodologies may have a material effect on the estimated fair value amounts. Cash and cash equivalents, accounts receivable, and accounts payable are carried at amounts that approximate their fair values due to their short-term maturities. The carrying amounts of our variable rate debt approximate fair value since the interest rates on these instruments are equivalent to rates currently offered to us. For fixed rate debt, we estimate fair value by using discounted cash flow analyses based on borrowing rates for similar kinds of borrowing arrangements.

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STOCK-BASED COMPENSATION. SFAS 123R requires that the cost of all employee, director and consultant stock options, as well as other equity-based compensation arrangements, be reflected in the financial statements based on the estimated fair value of the awards. SFAS 123R is applicable to any award that is settled or measured in stock, including stock options, restricted stock, stock appreciation rights, stock units, and employee stock purchase plans. We adopted the requirements of SFAS 123R effective January 1, 2006 using the modified prospective method of transition. The adoption of this standard did not have a material effect on our condensed consolidated statements of operations or financial position. Compensation cost under SFAS 123R may differ due to different assumptions and treatment of forfeitures.

REVENUE RECOGNITION. Rental revenue is recognized on the straight-line method of accounting required by GAAP under which contractual rent payment increases are recognized evenly over the lease term, regardless of when the rent payments are received by us. The difference between recognized rental income and rental cash receipts is recorded as "Deferred rent receivable" on the condensed consolidated balance sheets.

Rental revenue is affected if existing tenants terminate or amend their leases. We try to identify tenants who may be likely to declare bankruptcy, cease operations or are likely to seek a negotiated settlement of their obligation. By anticipating these events in advance, we expect to take steps to minimize their impact on our reported results of operations through lease renegotiations, reserves against deferred rent, and other appropriate measures. Our judgments and estimations about tenants' capacity to continue to meet their lease obligations will affect the rental revenue recognized. Material differences may

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result in the amount and timing of our rental revenue for any period if we made different judgments or estimations.

SFAS No. 66, "Accounting for Sales of Real Estate" ("SFAS 66"), establishes accounting standards for recognizing profit or loss on sales of real estate. The gain on the sale is only recognized proportionately as the seller receives payments from the purchaser. Interest income is recognized on an accrual basis, when appropriate.

Lease termination fees are recognized as other income when there is a signed termination letter agreement, all of the conditions of the agreement have been met, and when the tenant no longer has the right to occupy the property. These fees are paid by tenants who want to terminate their lease obligations before the end of the contractual term of the lease. We cannot predict or forecast the timing or amounts of future lease termination fees.

We recognize income from rent, tenant reimbursements and lease termination fees and other income once all of the following criteria are met in accordance with SEC Staff Accounting Bulletin 104:

- the agreement has been fully executed and delivered
- services have been rendered;
- the amount is fixed and determinable; and
- collectibility is reasonably assured.

With regard to critical accounting policies, where applicable, we have explained and discussed the criteria for identification and selection, methodology in application and impact on the financial statements with the Audit Committee of our Board of Directors. The Audit Committee has reviewed the critical accounting policies we identified.

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RESULTS OF OPERATIONS

COMPARISON OF THE THREE AND NINE MONTHS ENDED SEPTEMBER 30, 2008 WITH THE THREE AND NINE MONTHS ENDED SEPTEMBER 30, 2007

As of September 30, 2008, through our controlling interests in the operating partnerships, we owned 111 properties totaling approximately 8.0 million rentable square feet compared with 109 properties totaling approximately 7.9 million rentable square feet owned by us as of September 30, 2007. This represents a net increase of approximately 1.3% in total rentable square footage, as we acquired two R&D/office properties consisting of approximately 186,000 rentable square feet since the third quarter of 2007. Included in the 8.0 million rentable square feet are approximately 854,000 rentable square feet (or 16 buildings) that we are seeking to have rezoned for residential development.

Rental revenue from real estate for the three and nine months ended September 30, 2008 compared with the same three- and nine-month periods in 2007 was as follows:

Three Months Ended September 30,

2008

2007

\$ Change

% Chan
Propert

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| | (dollars in thousands) | | | |
|-------------------|------------------------|-----------------|----------------|----------|
| Same Property (1) | \$19,347 | \$18,983 | \$364 | 1 |
| 2007 Acquisitions | 7 | 17 | (10) | (57) |
| 2008 Acquisitions | 902 | - | 902 | 100 |
| Total | \$20,256 | \$19,000 | \$1,256 | 6 |

Nine Months Ended September 30,

| | 2008 | 2007 | \$ Change | % Chan Propert |
|------------------------|-----------------|-----------------|------------------|-------------------|
| (dollars in thousands) | | | | |
| Same Property (1) | \$56,098 | \$61,312 | (\$5,214) | (8) |
| 2007 Acquisitions | 27 | 38 | (11) | (31) |
| 2008 Acquisitions | 2,487 | - | 2,487 | 100 |
| Total | \$58,612 | \$61,350 | (\$2,738) | (4) |

(1) "Same Property" is defined as properties owned by us prior to 2007 that we still owned as of September 30, 2008.

RENTAL REVENUE FROM REAL ESTATE FROM CONTINUING OPERATIONS

For the quarter ended September 30, 2008, rental revenue from real estate increased by approximately \$1.3 million, or 6.6%, from \$19.0 million for the three months ended September 30, 2007 to \$20.3 million for the three months ended September 30, 2008. For the nine months ended September 30, 2008, rental revenue from real estate decreased by approximately (\$2.7) million, or (4.5%), from \$61.3 million for the nine months ended September 30, 2007 to \$58.6 million for the nine months ended September 30, 2008. The decline in rental revenue resulted primarily from renewing existing leases at lower rental rates and the loss of several tenants due to lease terminations, relocation or cessation of their operations in 2007, all of which resulted from current adverse market conditions. Total rental revenue was reduced by amortization expense of approximately (\$4.1) million for the nine months ended September 30, 2007 for an above-market lease intangible asset acquired pursuant to a lease termination. That resulted in the write-off of all remaining above-market lease intangible asset. Our occupancy rate at September 30, 2008 was approximately 66.7%, compared with approximately 62.6% at September 30, 2007.

LEASE TERMINATION INCOME

We had no lease termination fee income in the third quarter of 2008. Lease termination fee income for the three months ended September 30, 2007 was approximately \$47.2 million. Lease termination fee income for the nine months ended September 30, 2008 and 2007 was approximately \$1.9 million and \$57.5 million, respectively. These lease termination fees were paid by tenants who terminated their lease obligations before the end of the contractual term of the lease by agreement with us. We do not consider those transactions to be recurring items.

OTHER INCOME FROM CONTINUING OPERATIONS

Other income of approximately \$0.3 million for the three months ended September 30, 2008 included approximately \$0.25 million from management fees and \$0.04 million from miscellaneous income. Other income of approximately \$1.1 million

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for the three months ended September 30, 2007 included approximately \$0.2 million from management fees and \$0.9 million from security deposit forfeiture and miscellaneous income. For the nine months ended September 30, 2008, other income of approximately \$0.8 million included approximately \$0.7 million from management fees and \$0.1 million from miscellaneous income. For the nine months ended September 30, 2007, other income of approximately \$3.8 million included approximately \$1.6 million from a forfeited deposit under a contract for the sale of property, \$0.8 million from management fees, \$0.3 million from a bankruptcy settlement claim and \$1.1 million from security deposit forfeitures and miscellaneous income.

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EXPENSES FROM CONTINUING OPERATIONS

Property operating expenses and real estate taxes during the third quarter of 2008 decreased by approximately (\$0.4) million, or (6.2%), from \$6.2 million to \$5.8 million for the three months ended September 30, 2007 and 2008, respectively. The decrease was primarily attributable to higher lease commission write-off in 2007 that did not recur in 2008. Tenant reimbursements increased by approximately \$1.2 million, or 33.4%, from \$3.4 million for the three months ended September 30, 2007 to \$4.6 million for the three months ended September 30, 2008 due to reimbursements of recurring operating expenses. The level of tenant reimbursements is affected by vacancies because certain recurring expenses such as property insurance, real estate taxes, and other fixed operating expenses are not recoverable from vacant properties. For the nine months ended September 30, 2008, property operating expenses and real estate taxes increased by approximately \$0.9 million, or 6.1%, from \$15.3 million for the nine months ended September 30, 2007 to \$16.2 million for the nine months ended September 30, 2008. Tenant reimbursements increased by approximately \$2.0 million, or 20.1%, from \$9.9 million for the nine months ended September 30, 2007 to \$11.9 million for the nine months ended September 30, 2008. The increase in tenant reimbursements for the nine month period was due to higher operating costs in 2008 and reimbursements from 2007 for common area charges that were applied in 2008.

General and administrative expenses decreased by approximately (\$0.4) million, or (38.4%), from \$1.0 million to \$0.6 million for the three months ended September 30, 2007 and 2008, respectively. The decrease in general and administrative expenses was primarily due to higher legal fees associated with a potential acquisition of the Company in 2007 that did not recur in 2008. For the nine months ended September 30, 2007 and 2008, general and administrative expenses decreased by approximately (\$0.4) million, or (17.6%), from \$2.4 million to \$2.0 million, respectively, for similar reasons.

Real estate depreciation and amortization expense increased by approximately \$0.2 million, or 4.1%, from \$5.5 million to \$5.7 million for the three months ended September 30, 2007 and 2008, respectively. The increase resulted from the acquisition of two R&D properties and additional tenant improvements since September 30, 2007. Real estate depreciation and amortization expense remained the same at approximately \$17.1 million for the nine months ended September 30, 2008 and 2007. Such expense in the first nine months of 2007 included additional amortization expense relating to in-place lease value intangible asset pursuant to SFAS 141 in connection with two lease terminations that did not recur in 2008.

EQUITY IN EARNINGS FROM UNCONSOLIDATED JOINT VENTURE

As of September 30, 2008, we held investments in three R&D buildings totaling approximately 466,800 rentable square feet through an unconsolidated joint venture, TBI-MWP, in which we acquired a 50% interest in January 2003 from the

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Berg Group under the Berg Land Holdings Option Agreement. We have a non-controlling limited partnership interest in this joint venture, which we account for using the equity method of accounting. For the three months ended September 30, 2008, we recorded equity in earnings from the unconsolidated joint venture of approximately \$0.13 million compared with equity in earnings of \$0.37 million for the same period in 2007. The decrease was attributable to a reduction in rent payment for one of the tenants in the joint venture. For the nine-month periods ended September 30, 2008 and 2007, equity in earnings from the unconsolidated joint venture was approximately \$0.92 million and \$1.06 million, respectively. The occupancy rate for the properties owned by this joint venture at September 30, 2008 and 2007 was 100%.

INTEREST INCOME

Interest income decreased by approximately (\$0.6) million, or (74.3%), from \$0.8 million to \$0.2 million for the three months ended September 30, 2007 and 2008, respectively. The decrease was primarily due to lower cash reserve on hand in 2008. Interest income decreased by approximately (\$1.1) million, or (54.1%), from \$2.1 million for the nine months ended September 30, 2007 to \$1.0 million for the nine months ended September 30, 2008.

INTEREST EXPENSE

Interest expense was approximately \$5.0 million for the three months ended September 30, 2008 and 2007. Interest expense (related parties) increased by approximately \$0.1 million, or 71.7%, from \$0.2 million for the three months ended September 30, 2007 to \$0.3 million for the three months ended September 30, 2008 due to higher related party debt incurred in the quarter just ended. Total debt outstanding, including amounts due related parties, increased by approximately \$8.2 million, or 2.4%, from \$349.6 million as of September 30, 2007 to \$357.8 million as of September 30, 2008.

Interest expense decreased by approximately (\$0.3) million, or (1.8%), from \$15.2 million for the nine months ended September 30, 2007 to \$14.9 million for the nine months ended September 30, 2008. Interest expense (related parties) increased by approximately \$0.5 million, or 87.7%, from \$0.5 million for the nine months ended September 30, 2007 to \$1.0 million for the nine months ended September 30, 2008.

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INCOME FROM DISCONTINUED OPERATIONS

The following table depicts the amounts of income from discontinued operations for the three and nine months ended September 30, 2007.

| | Three Months Ended September 30, | | Ni |
|---|----------------------------------|---------|-----------------|
| | 2008 | 2007 | --- |
| | | | --- |
| | | | --- |
| | | | (dollars in tho |
| | | | (unaudited |
| (Loss) income attributable to discontinued operations | - | (\$ 11) | |
| Gain from disposal of discontinued operations | - | 6,529 | |
| Minority interest in earnings attributable to discontinued operations | - | (5,398) | |
| | - | \$1,120 | |
| Income from discontinued operations | - | \$1,120 | |
| | - | \$1,120 | |

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In the third quarter of 2007, we sold two R&D properties, and in accordance with our adoption of SFAS 144, classified them as discontinued operations. The income to common stockholders attributable to discontinued operations from these properties for the three and nine months ended September 30, 2007 was approximately \$1.1 million.

NET INCOME TO COMMON STOCKHOLDERS AND NET INCOME TO MINORITY INTERESTS

Net income to common stockholders decreased by approximately (\$10.3) million, or (86.3%), from \$11.9 million for the three months ended September 30, 2007 to \$1.6 million for the same period in 2008. The minority interest portion of income decreased by approximately (\$42.2) million, or (87.0%), from \$48.5 million for the three months ended September 30, 2007 to \$6.3 million for the three months ended September 30, 2008. The decrease in the quarter's net income for both common stockholders and minority interests was primarily due to lower termination fee income in the third quarter of 2008. For the nine months ended September 30, 2008 and 2007, the minority interest portion of income was approximately \$19.0 million and \$70.5 million, respectively, and net income to common stockholders was approximately \$4.9 million and \$17.3 million, respectively. The combination of lower termination fee income and higher operating expenses led to the decrease in net income for both common stockholders and minority interests in the first nine months of 2008.

Minority interest in net income has been calculated by multiplying the net income of the operating partnerships (on a stand-alone basis) by the respective minority interest ownership percentage. Minority interests represent the ownership interest of all limited partners in the operating partnerships taken as a whole, which was approximately 81% as of September 30, 2008 and 2007.

CHANGES IN FINANCIAL CONDITION

The most significant changes in our financial condition during the nine months ended September 30, 2008 resulted from the acquisition of two R&D properties. At September 30, 2008, total investments in real estate increased on a net basis by approximately \$41.9 million from December 31, 2007 primarily due to two R&D property acquisitions consisting of approximately 186,000 rentable square feet located in the Silicon Valley and the construction of additional tenant improvements.

Total stockholders' equity, net, decreased by approximately (\$5.8) million from December 31, 2007. We obtained additional capital from the issuance of 77,154 and 6,970 shares of our common stock for stock option exercises and the exchange of O.P. units, respectively, which increased additional paid-in capital by approximately \$1.2 million. Stockholders' equity was reduced during the most recent quarter by distributions in excess of accumulated earnings of approximately (\$7.0) million.

LIQUIDITY AND CAPITAL RESOURCES

We expect a slight increase in operating cash flows from our operating property portfolio in 2008 compared with 2007 primarily from new leases, periodic payments from M&M Real Estate Control & Restructuring relating to the Ciena lease termination in 2007 (see Note 3 above) and additional early lease terminations. If we are unable to lease a significant portion of the approximately 141,000 rentable square feet scheduled to expire during the remainder of 2008 or an equivalent amount of our currently available space of approximately 2.7 million rentable square feet, however, our operating cash flows after 2008 may be affected adversely. With the expectation of lower rental revenues for the remainder of 2008, we expect our properties' net operating income to show a year-over-year decline compared with 2007 driven by excess

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capacity of commercial office and R&D space in the Silicon Valley. We are also subject to risks of decreased occupancy through tenant defaults and bankruptcies and potential reduction in rental rates upon renewal of properties, which would result in reduced cash flow from operations. Cash flows from lease terminations are non-recurring and to maintain or increase cash flows in the future we must re-lease our vacant properties.

We expect our principal source of liquidity for distributions to stockholders and O.P. unit holders, debt service, leasing commissions and recurring capital expenditures to come from cash provided by operations, as well as borrowings under our line of credit with Heritage Bank of Commerce ("HBC"). We expect these sources of liquidity to be adequate to meet projected distributions to stockholders and other presently anticipated liquidity requirements in 2008. We expect to meet our long-term liquidity requirements for the funding of property development, property acquisitions and other material non-recurring capital improvements through cash and investments, long-term secured and unsecured indebtedness, and potentially, the issuance of additional equity securities by us. We expect our total interest expense to increase through new financing activities.

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In the first nine months of 2008, cash and cash equivalents decreased by approximately (\$23.7) million from \$23.7 million as of December 31, 2007 to \$0 as of September 30, 2008.

As of September 30, 2008, restricted cash totaled approximately \$43.3 million. Of this amount, approximately \$41.8 million represents cash held by our consolidated VIE from the Ciena lease termination in the third quarter of 2007. We do not possess or control these funds or have any rights to receive them except as provided in the applicable agreements, however. We include this in our restricted cash under the principles of FIN 46R. The remaining \$1.5 million represents a certificate of deposit which represents a portion of our collateral securing the Prudential mortgage loan, which we placed in escrow in October 2007 as a substitution for two properties that we sold. Prudential returned these funds, plus interest, to us in October 2008. The restricted cash is not available for distribution to stockholders.

DISTRIBUTIONS

On October 9, 2008, we paid dividends of \$0.20 per share of common stock to all common stockholders of record as of September 30, 2008. On the same date, the operating partnerships paid a distribution of \$0.20 per O.P. unit to all holders of O.P. units, with the exception of the Berg Group. Aggregate dividends and distributions amounted to approximately \$21.1 million. For the remainder of 2008, we expect to maintain our current quarterly dividend payment rate to common stockholders and O.P. unit holders of \$0.20 per share. However, distributions are declared at the discretion of our Board of Directors and are subject to actual cash available for distribution, our financial condition, capital requirements and such other factors, as our Board of Directors deems relevant.

DEBT

We currently have a \$17.5 million unsecured revolving line of credit with HBC established in April 2008. The revolving line of credit carries a variable interest rate based on the one-month LIBOR plus 1.75% per annum and matures June 15, 2009.

On July 3, 2008, a short-term note payable in the amount of approximately \$12.8 million was issued to the Berg Group in connection with the second quarter 2008 dividend distributions. The interest rate on this note was LIBOR plus 2%. As of September 30, 2008, the due date of the note, the remaining balance on the Berg

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Group note payable was approximately \$7.8 million. In October 2008, the Company and the Berg Group agreed to extend the maturity due date to November 30, 2008.

At September 30, 2008, we had total indebtedness of approximately \$357.8 million, including \$329.2 million of fixed rate mortgage debt, \$11.9 million under the HBC line of credit, \$8.9 million debt under the Berg Group mortgage note (related parties) and \$7.8 million debt under the Berg Group note payable (related parties), as detailed in the table below. The Prudential, Northwestern, Allianz and HBC loans contain certain financial loan and reporting covenants as defined in the loan agreements. As of September 30, 2008, we were in compliance with these loan covenants.

On October 1, 2008, we entered into a fixed rate term agreement and related contracts and instruments for a secured mortgage loan totaling \$115 million from Hartford Life Insurance Company, Hartford Life and Accident Insurance Company and Hartford Life and Annuity Insurance Company (the "Hartford Loan"). The Hartford Loan bears a fixed interest rate of 6.21%, with a 20 year amortization, and matures October 1, 2018, at which time any outstanding principal and interest will be due. Pursuant to the loan agreement, monthly principal and interest installment payments of approximately \$0.84 million are due on the first day of each month. The Hartford Loan is secured by 20 properties consisting of approximately 1.6 million rentable square feet. We have the option to prepay the Hartford Loan, subject to certain yield maintenance provisions, though generally no prepayment is permitted during the first 24 months of the loan term.

In general, the properties securing the Hartford Loan cannot be sold or otherwise transferred without the lender's consent. The loan balance may be accelerated in full in the event of a prohibited sale or transfer. The Hartford Loan is non-recourse to the operating partnerships. Under the terms of a carveout indemnity agreement and an environmental indemnity agreement, we may be liable for the unpaid balance of the Hartford Loan and other obligations arising under the loan agreement under the circumstances provided in such agreements.

We paid approximately \$1.0 million in loan fees and financing costs, which will be amortized over the ten year loan period. The proceeds were used primarily to repay the remaining balance of an existing mortgage loan with Prudential Mortgage Capital Company plus accrued interest and other short-term debt. Our mortgage loan with Prudential Mortgage Capital Company had a principal balance of approximately \$110.6 million as of September 30, 2008.

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CONTRACTUAL OBLIGATIONS

The following table identifies the contractual obligations with respect to the maturities and scheduled principal repayments of our secured debt, Note, Credit Facility and scheduled interest payments of our fixed-rate and variable-rate debt at September 30, 2008 and provides information about our operating lease obligations that will impact our liquidity and cash flow in future periods.

| | 2008 | 2009 | 2010 | 2011 | 2012 |
|---|-----------|----------|----------|----------|----------|
| Principal payments(1) | \$120,732 | \$21,474 | \$10,105 | \$10,681 | \$10,681 |
| Interest payments-fixed rate debt(2) | 3,434 | 12,143 | 11,601 | 11,025 | 10,500 |
| Interest payments-variable rate debt(3) | 159 | 228 | - | - | - |

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| | | | | | |
|--------------------------------|-----------|----------|----------|----------|-----|
| Operating lease obligations(4) | 30 | 30 | - | - | |
| Total | \$124,355 | \$33,875 | \$21,706 | \$21,706 | \$2 |

- (1) As of September 30, 2008, 94.5% of our debt was contractually fixed and 5.5% of our debt bore interest at variable rates. Our debt obligations are set forth in detail in the table below.
- (2) The information in the table above reflects our projected interest rate obligations for the fixed-rate payments based on the contractual interest rates, interest payment dates and scheduled maturity dates.
- (3) The information in the table above reflects our projected interest rate obligations for the variable-rate payments based on LIBOR plus a spread that ranged from 1.75% to 2.00% at September 30, 2008, the scheduled interest payment dates and maturity dates.
- (4) Our operating lease obligations relate to a lease of our corporate office facility from a related party.

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The following table sets forth information regarding debt outstanding as of September 30, 2008:

| Debt Description | Collateral Properties | Bal |
|--|---|------|
| (dollars in thousands) | | |
| Line of Credit: | | |
| Heritage Bank of Commerce | Not Applicable | \$11 |
| Note Payable (related parties): | Not Applicable | 7 |
| Mortgage Note Payable (related parties): | 5300 & 5350 Hellyer Avenue, San Jose, CA | 8 |
| Mortgage Notes Payable (1): | | |
| Prudential Mortgage Capital Company (2) | 10300 Bubb Road, Cupertino, CA 10500 N. De Anza Boulevard, Cupertino, CA 4050 Starboard Drive, Fremont, CA 45738 Northport Loop, Fremont, CA 450 National Avenue, Mountain View, CA 6311 San Ignacio Avenue, San Jose, CA 6321 San Ignacio Avenue, San Jose, CA 6325 San Ignacio Avenue, San Jose, CA 6331 San Ignacio Avenue, San Jose, CA 6341 San Ignacio Avenue, San Jose, CA 6351 San Ignacio Avenue, San Jose, CA 3236 Scott Boulevard, Santa Clara, CA 3560 Bassett Street, Santa Clara, CA 3570 Bassett Street, Santa Clara, CA 3580 Bassett Street, Santa Clara, CA 1135 Kern Avenue, Sunnyvale, CA 1212 Bordeaux Lane, Sunnyvale, CA 1230 E. Arques, Sunnyvale, CA 1250 E. Arques, Sunnyvale, CA 1600 Memorex Drive, Santa Clara, CA | 110 |

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| | | |
|--|---|-------------------------|
| | 1688 Richard Avenue, Santa Clara, CA | |
| | 1700 Richard Avenue, Santa Clara, CA | |
| | 3540 Bassett Street, Santa Clara, CA | |
| | 3542 Bassett Street, Santa Clara, CA | |
| | 3544 Bassett Street, Santa Clara, CA | |
| | 3550 Bassett Street, Santa Clara, CA | |
| Northwestern Mutual Life Insurance Co. (5) | 1750 Automation Parkway, San Jose, CA | 82 |
| | 1756 Automation Parkway, San Jose, CA | |
| | 1762 Automation Parkway, San Jose, CA | |
| | 6320 San Ignacio Avenue, San Jose, CA | |
| | 6540-6541 Via Del Oro, San Jose, CA | |
| | 6385-6387 San Ignacio Avenue, San Jose, CA | |
| | 2251 Lawson Lane, Santa Clara, CA | |
| | 1325 McCandless Drive, Milpitas, CA | |
| | 1650-1690 McCandless Drive, Milpitas, CA | |
| | 20605-20705 Valley Green Drive, Cupertino, CA | |
| Allianz Life Ins. Co.(Allianz Loan I) (6) | 5900 Optical Court, San Jose, CA | 23 |
| Allianz Life Ins. Co.(Allianz Loan II) (6) | 5325-5345 Hellyer Avenue, San Jose, CA | 113 |
| | 1768 Automation Parkway, San Jose, CA | |
| | 2880 Scott Boulevard, Santa Clara, CA | |
| | 2890 Scott Boulevard, Santa Clara, CA | |
| | 2800 Scott Boulevard, Santa Clara, CA | |
| | 20400 Mariani Avenue, Cupertino, CA | |
| | 10450-10460 Bubb Road, Cupertino, CA | |
| | | ----- 329 ----- |
| TOTAL | | ----- \$357 ===== |

- (1) Mortgage notes payable generally require monthly installments of principal and interest ranging from approximately \$177,000 to \$840,000 over various terms extending through the year 2025. The weighted average interest rate of mortgage notes payable was 5.85% at September 30, 2008.
- (2) The Prudential Mortgage Capital Company loan is payable in monthly installments of approximately \$827,000, which includes principal (based upon a 30-year amortization) and interest. A limited partner who is not a member of the Berg Group has guaranteed approximately \$12,000,000 of this debt. Costs and fees incurred with obtaining this loan aggregated approximately \$900,000, which were deferred and amortized over the loan period. The Prudential loan was paid off in full on October 1, 2008 with proceeds from the new Hartford Loan (see above for details).
- (3) Loan carries a variable interest rate equal to LIBOR plus 1.75%. The interest rate at September 30, 2008 was 4.22%. The Heritage Bank of Commerce line of credit contains certain financial loan and reporting covenants as defined in the loan agreements, including minimum tangible net worth and debt service coverage ratio. As of September 30, 2008, we were in compliance with these loan covenants.
- (4) Loan carries a variable interest rate equal to LIBOR plus 2.0%. The interest rate at September 30, 2008 was 4.93%.
- (5) The Northwestern loan is payable in monthly installments of approximately \$696,000, which includes principal (based upon a 20-year amortization) and interest. Costs and fees incurred with obtaining this loan aggregated approximately \$675,000, which were deferred and amortized over the loan period.

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- (6) The Allianz loans are payable in monthly aggregate installments of approximately \$1,017,000, which includes principal (based upon a 20-year amortization) and interest. Costs and fees incurred with obtaining these loans aggregated approximately \$1,089,000, which were deferred and amortized over the loan periods. The Allianz loans contain certain customary covenants as defined in the loan agreements. As of September 30, 2008, we were in compliance with these loan covenants.
- (7) In October 2008, the Company and the Berg Group agreed to extend the maturity due date from September 30, 2008 to November 30, 2008.
- (8) On October 1, 2008, the Company and the Berg Group agreed to extend the maturity due date from June 2010 to June 2013.

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At September 30, 2008, our debt to total market capitalization ratio, which is computed as our total debt outstanding divided by the sum of total debt outstanding plus the market value of common stock (based upon the closing price of \$9.74 per share on September 30, 2008) on a fully diluted basis, including the conversion of all O.P. units into common stock, was approximately 25.9%. On September 30, 2008, the last trading day in the quarter, total market capitalization was approximately \$1.38 billion.

At September 30, 2008, the outstanding balance remaining under certain notes that we owed to the operating partnerships was approximately \$2.1 million. The due date of these notes has been extended to September 30, 2009. The principal amount of these notes, along with the interest expense, which is interest income to the operating partnerships, is eliminated in consolidation and is not included in the corresponding line items within the condensed consolidated financial statements. However, the interest income earned by the operating partnerships, which is interest expense to us, in connection with this debt, is included in the calculation of minority interests as reported on the condensed consolidated statement of operations, thereby reducing our net income by this same amount. At present, our only means for repayment of this debt is through distributions that we receive from the operating partnerships that are in excess of the amount of dividends to be paid to our stockholders or by raising additional equity capital.

HISTORICAL CASH FLOWS

COMPARISON OF THE NINE MONTHS ENDED SEPTEMBER 30, 2008 WITH THE NINE MONTHS ENDED SEPTEMBER 30, 2007

Net cash provided by operating activities for the nine months ended September 30, 2008 was approximately \$31.4 million compared with \$29.9 million for the same period in 2007. Cash flow increases came primarily from higher lease termination fee payment and higher payments from security deposits and deferred rental income in 2008.

Net cash used in investing activities was approximately \$26.2 million and \$8.3 million for the nine months ended September 30, 2008 and 2007, respectively. Cash used in investing activities during the nine months ended September 30, 2008 related principally to the acquisition of one R&D property at 5981 Optical Court in San Jose, California and one R&D property at 2904 Orchard Parkway in San Jose, California for a total of approximately \$35.8 million. The acquisition at 2904 Orchard Parkway was completed as a tax-deferred exchange transaction involving our former R&D property at 1170 Morse Avenue in Sunnyvale, California. The remaining excess restricted cash of approximately \$7.7 million was transferred to our general cash account. Capital expenditures for real estate improvements were approximately \$6.2 million for the nine months ended September 30, 2008.

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Net cash used in investing activities during the nine months ended September 30, 2007 related principally to the acquisition of 50 acres of vacant land at the Morgan Hill Ranch in Morgan Hill, California for approximately \$25.5 million, the acquisition of five acres of vacant land at the Morgan Hill Ranch in Morgan Hill, California for approximately \$2.3 million, and the acquisition of three R&D properties at Montague Expressway in Milpitas, California and one R&D property at 5845 Hellyer Avenue in San Jose, California for approximately \$19.7 million. The acquisition at Montague Expressway was completed as a tax-deferred exchange transaction involving our former R&D properties at 2033-2243 Samaritan Drive in San Jose, California. The remaining excess restricted cash of approximately \$0.6 million was transferred to our general cash account. Capital expenditures for real estate improvements were approximately \$4.6 million for the nine months ended September 30, 2007.

Net cash used in financing activities was approximately \$28.9 million for the nine months ended September 30, 2008 compared with approximately \$17.6 million for the nine months ended September 30, 2007. During the first nine months of 2008, we financed approximately \$22.4 million in short-term debt, received approximately \$11.9 million from our line of credit, received approximately \$0.7 million from stock option exercises, paid approximately \$31.1 million towards outstanding debt, paid approximately \$11.0 million of dividends to common stockholders and paid approximately \$21.8 million to minority interests for distributions in excess of earnings. During the same period in 2007, we paid approximately \$8.2 million towards outstanding debt and paid approximately \$9.4 million of dividends to common stockholders.

FUNDS FROM OPERATIONS ("FFO")

FFO is a non-GAAP financial measurement used by real estate investment trusts to measure and compare operating performance. As defined by NAREIT, FFO represents net income (loss) before minority interest of O.P. unit holders, computed in accordance with GAAP, plus non-recurring events other than "extraordinary items" under GAAP, excluding gains and losses from sales of depreciable operating properties, plus real estate related depreciation and amortization, excluding amortization of deferred financing costs and depreciation of non-real estate assets, and after adjustments for unconsolidated partnerships and joint ventures. FFO does include impairment losses for properties held for sale and held for use. Management considers FFO to be an appropriate supplemental measure of our operating and financial performance because when compared year over year, it reflects the impact to operations from trends in occupancy rates, rental rates, operating costs, general and administrative expenses and interest costs, providing a perspective not immediately apparent from net income. In addition, management believes that FFO provides useful information about our financial performance when compared with other REITs because FFO is generally recognized as the industry standard for reporting the operations of REITs. In addition to the disclosure of operating earnings per share, we will continue to use FFO as a measure of our performance. FFO should neither be considered as an alternative for net income as a measure of profitability nor is it comparable to cash flows provided by operating activities determined in accordance with GAAP, nor is FFO necessarily indicative of funds available to meet our cash needs, including the need to make cash distributions to satisfy REIT requirements. For example, FFO is not adjusted for payments of debt principal required under our debt service obligations.

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Our definition of FFO also assumes conversion at the beginning of the period of all convertible securities, including minority interests represented by O.P. Units that might be exchanged for common stock. FFO does not represent the amount available for management's discretionary use; as such funds may be needed

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for capital replacement or expansion, debt service obligations or other commitments and uncertainties. Furthermore, FFO is not comparable to similarly entitled items reported by other REITs that do not define FFO exactly as we do.

FFO for the three and nine months ended September 30, 2008 and 2007, as reconciled to net income to common stockholders, are summarized in the following table:

| | Three Months Ended September 30, | | |
|---|----------------------------------|----------|-----|
| | 2008 | 2007 | |
| | (dollars in thousands) | | |
| Net income to common stockholders | \$ 1,635 | \$11,941 | \$ |
| Add: | | | |
| Minority interests (1) | 6,171 | 48,420 | 1 |
| Depreciation and amortization of real estate(2) | 6,393 | 7,184 | 1 |
| Less: | | | |
| Gain on sale of real estate | - | (6,529) | |
| | \$14,199 | \$61,016 | \$4 |
| FFO | \$14,199 | \$61,016 | \$4 |

(1) Minority interests in net income is calculated by taking the net income of the operating partnerships (on a stand-alone basis) multiplied by the respective weighted average minority interests ownership percentage. Minority interests for third parties totaling approximately \$133 and \$130 for the three months ended September 30, 2008 and 2007, respectively, and \$307 and \$371 for the nine months ended September 30, 2008 and 2007, respectively, were deducted from total minority interests in calculating FFO.

(2) Includes our portion of depreciation and amortization of real estate and leasing commissions from our unconsolidated joint venture totaling approximately \$189 for the three months ended September 30, 2008 and 2007, and \$568 for the nine months ended September 30, 2008 and 2007. Also includes our amortization of leasing commissions of approximately \$444 and \$1,426 for the three months ended September 30, 2008 and 2007, respectively, and \$1,249 and \$2,187 for the nine months ended September 30, 2008 and 2007, respectively. Amortization of leasing commissions is included in the property operating, maintenance and real estate taxes line item in the condensed consolidated statements of operations.

The decrease in FFO year-over-year was primarily due to lower rental and lease termination fee income in 2008.

DISTRIBUTION POLICY

Our board of directors determines the amount and timing of distributions to our stockholders. The board of directors will consider many factors prior to making any distributions, including the following:

- the amount of cash available for distribution;
- our ability to refinance maturing debt obligations;
- our financial condition;
- whether to reinvest funds rather than to distribute such funds;
- our committed and projected capital expenditures;
- the amount of cash required for new property acquisitions, including acquisitions under existing agreements with the Berg Group;

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- the amount of our annual debt service requirements;
- prospects of tenant renewals and re-releases of properties subject to expiring leases;
- cash required for re-leasing activities;
- the annual distribution requirements under the REIT provisions of the federal income tax laws; and
- such other factors as the board of directors deems relevant.

We cannot assure you that we will be able to meet or maintain our cash distribution objectives.

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ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

We do not generally hold market risk sensitive instruments for trading purposes. We use fixed and variable rate debt to finance our operations. Our exposure to market risk for changes in interest rates relates primarily to our current variable rate debt and future debt obligations. We are vulnerable to significant fluctuations of interest rates on our floating rate debt and pricing on our future debt. We manage our market risk by monitoring interest rates where we try to recognize the unpredictability of the financial markets and seek to reduce potentially adverse effect on the results of our operations. This takes frequent evaluation of available lending rates and examination of opportunities to reduce interest expense through new sources of debt financing. Several factors affecting the interest rate risk include governmental monetary and tax policies, domestic and international economics and other factors that are beyond our control. The following table provides information about the principal cash flows, weighted average interest rates, and expected maturity dates for debt outstanding as of September 30, 2008. The current terms of this debt are described in Item 2, "Management's Discussion and Analysis of Financial Condition and Results of Operations - Liquidity and Capital Resources." For fixed rate debt, we estimate fair value by using discounted cash flow analyses based on borrowing rates for similar kinds of borrowing arrangements.

For fixed rate debt, the table presents the assumption that the outstanding principal balance at September 30, 2008 will be paid according to scheduled principal payments and that we will not prepay any of the outstanding principal balance.

For variable rate debt, the table presents the assumption that the outstanding principal balance at September 30, 2008 will be paid upon maturity.

| | Three Months Remaining | Year Ending December 31, | | | |
|--------------------------------|------------------------------|--------------------------|----------|----------|----------|
| | 2008 | 2009 | 2010 | 2011 | 2012 |
| | ----- | | | | |
| | (dollars in thousands) | | | | |
| Fixed Rate Debt: | | | | | |
| Secured notes payable | \$112,911 | \$9,562 | \$10,105 | \$10,681 | \$11,289 |
| Weighted average interest rate | 5.85% | 5.85% | 5.85% | 5.85% | 5.85% |

Variable Rate Debt:

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| | | | | |
|--------------------------------|---------|----------|---|---|
| Unsecured debt | \$7,821 | \$11,911 | - | - |
| Weighted average interest rate | 4.93% | 4.22% | | |

The primary market risks we face are interest rate fluctuations. As a result, we pay lower rates of interest in periods of decreasing interest rates and higher rates of interest in periods of increasing interest rates. We had no interest rate caps or interest rate swap contracts at September 30, 2008. The only variable debt that we had as of September 30, 2008 was approximately \$19.7 million owed to the Heritage Bank of Commerce and the Berg Group. This represented approximately 5.5% of the total \$357.8 million of outstanding debt as of September 30, 2008. All of our debt is denominated in United States dollars.

The following discussion of market risk is based solely on a possible hypothetical change in future market conditions related to our variable-rate debt. It includes "forward-looking statements," as previously defined, regarding market risk, but we are not forecasting the occurrence of these market changes.

Based on the amount of variable debt outstanding as of September 30, 2008, a 1% increase or decrease in interest rates on our approximately \$19.7 million of floating rate debt would decrease or increase, respectively, earnings and cash flows for the nine-month period then ended by approximately \$148,000, as a result of the increased or decreased interest expense associated with the change in rate, and would not have an impact on the fair value of the floating rate debt. This amount is determined by considering the impact of hypothetical interest rates on our borrowing cost. Due to the uncertainty of fluctuations in interest rates and the specific actions that might be taken by us to mitigate such fluctuations and their possible effects, the foregoing sensitivity analysis assumes no changes to our financial structure.

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ITEM 4. CONTROLS AND PROCEDURES

DISCLOSURE CONTROLS AND PROCEDURES

We strive to maintain disclosure controls and procedures that are designed to ensure that information required to be disclosed in our Exchange Act reports is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms, and that such information is accumulated and communicated to our management, including our chief executive officer and chief financial officer, as appropriate, to allow for timely decisions regarding required disclosure. In designing and evaluating the disclosure controls and procedures, management recognizes that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving the desired control objectives and management necessarily is required to apply its judgment in evaluating the cost-benefit relationship of possible controls and procedures.

As required by SEC Rule 13a-15(b) we conducted an evaluation, under the supervision and with the participation of our management, including our Chief Executive Officer, President and Vice President of Finance, of the effectiveness of the design and operation of our disclosure controls and procedures. Based upon that evaluation, the Chief Executive Officer, President and Vice President of Finance concluded that our disclosure controls and procedures (as defined in Rule 13a-15(e) or Rule 15d-15(e)) were effective as of September 30, 2008.

CHANGES IN INTERNAL CONTROL OVER FINANCIAL REPORTING

There was no material change in our internal control over financial reporting

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during the last fiscal quarter that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

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PART II - OTHER INFORMATION

ITEM 1. LEGAL PROCEEDINGS

The discussion of legal proceedings is incorporated herein by reference from Part I "Item 1. - Notes to Condensed Consolidated Financial Statements - Note 9 - Commitments and Contingencies."

ITEM 1A. RISK FACTORS

While we attempt to identify, manage and mitigate risks and uncertainties associated with our business to the extent practical under the circumstances, some level of risk and uncertainty will always be present. In addition to the other information contained in this report and the risk factor listed below, you should carefully review the factors discussed under Item 1A of our annual report on Form 10-K for the year ended December 31, 2007 which describes some of the risks and uncertainties associated with our business. These risks and uncertainties have the potential to materially affect our business, financial condition, results of operations, cash flows, and future prospects. Additional risks and uncertainties not presently known to us or that we currently deem immaterial also may impair our business operations.

Our lenders may have suffered losses related to their lending and other financial relationships, especially because of the general weakening of the national economy and increased financial instability of many borrowers. As a result, lenders may become insolvent or tighten their lending standards, which could make it more difficult for us to borrow under our credit facility or to obtain other financing on favorable terms or at all.

ITEM 6. Exhibits

- 31.1 Section 1350 Certificate of CEO
- 31.2 Section 1350 Certificate of President & COO
- 31.3 Section 1350 Certificate of Principal Financial Officer
- 32 Certification pursuant to Section 906 of the Sarbanes-Oxley Act of 2002

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Signatures

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereto duly authorized.

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Mission West Properties, Inc.
(Registrant)

Date: November 6, 2008

By: /s/ Carl E. Berg

Carl E. Berg
Chief Executive Officer

Date: November 6, 2008

By: /s/ Wayne N. Pham

Wayne N. Pham
Vice President of Finance and Controller
(Principal Accounting Officer and Duly
Authorized Officer)

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