MISSION WEST PROPERTIES INC
Form DEFM14A
November 27, 2012
Table of Contents

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

SCHEDULE 14A

Proxy Statement Pursuant to Section 14(a) of the

Securities and Exchange Act of 1934

Filed by the Registrant x

Filed by a Party other than the Registrant ¨

Check the appropriate box:

¨ Preliminary Proxy Statement
¨ Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))
x Definitive Proxy Statement
¨ Definitive Additional Materials
¨ Soliciting Material Pursuant to § 240.14a-12

MISSION WEST PROPERTIES, INC.

(Name of Registrant as Specified In Its Charter)

(Name of Person(s) Filing Proxy Statement, if other than Registrant)

Payment of Filing Fee (Check the appropriate box):

¨ No fee required

¨ Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11

(1) Title of each class of securities to which transaction applies:

(2) Aggregate number of securities to which transaction applies:

(3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (set forth the amount on which the filing fee is calculated and state how it was determined):

(4) Proposed maximum aggregate value of transaction:

(5) Total fee paid:

x Fee paid previously with preliminary materials

¨ Check box if any part of the fee is offset as provided by Exchange Act Rule 240.0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

(1) Amount Previously Paid:

(2) Form, Schedule or Registration Statement No.:

(3) Filing Party:

(4) Date Filed:

Table of Contents

MISSION WEST PROPERTIES, INC.

10050 Bandley Drive

Cupertino, California 95014

Dear Stockholder,

You are cordially invited to attend the Special Meeting of Stockholders (the Special Meeting) of Mission West Properties, Inc., to be held on December 13, 2012, at 10:00 a.m., Pacific Time, at our principal executive offices at 10050 Bandley Drive, Cupertino, California 95014.

The matters to be acted upon at the Special Meeting are described in detail in the following Notice of the Special Meeting of Stockholders and Proxy Statement.

Whether or not you plan to attend the Special Meeting, your vote is very important, and we encourage you to vote promptly. This will ensure your representation at the Special Meeting. Instructions regarding the methods of voting will be contained on the proxy card that you receive. If you submit proxy voting instructions over the Internet or by telephone or you complete, sign and mail a proxy card, but later decide to attend the Special Meeting in person, or for any other reason desire to revoke your proxy, you may do so at any time before your proxy is voted.

The Independent Directors Committee and the Board have unanimously approved and declared advisable and in the best interests of our company and of our stockholders the transactions described in this Proxy Statement.

Sincerely,

Carl E. Berg
Chairman of the Board and Chief Executive Officer

This Proxy Statement and the accompanying proxy card are being mailed to stockholders on or about November 28, 2012. The Board of Directors has set the close of business on November 2, 2012, as the record date for the determination of stockholders entitled to receive notice of and to vote at the Special Meeting and at any postponements or adjournments thereof.

Important Notice Regarding the Availability of Proxy Materials for

Mission West Properties, Inc. s Special Meeting of Stockholders to be held on December 13, 2012.

Mission West Properties, Inc. s Proxy Statement is available free of charge at the following website: www.missionwest.com.

YOUR VOTE IS IMPORTANT.

PLEASE REMEMBER TO PROMPTLY RETURN YOUR PROXY.

Table of Contents

MISSION WEST PROPERTIES, INC.

10050 Bandley Drive

Cupertino, CA 95014

NOTICE OF SPECIAL MEETING OF STOCKHOLDERS

TO BE HELD DECEMBER 13, 2012

To the Stockholders of Mission West Properties, Inc.:

NOTICE IS HEREBY GIVEN that a Special Meeting of Stockholders (the Special Meeting) of Mission West Properties, Inc., a Maryland corporation, will be held at our principal executive offices at 10050 Bandley Drive, Cupertino, California 95014 on December 13, 2012, at 10:00 a.m., Pacific Time, for the following purposes:

1. to consider and vote on the approval of a recapitalization (the OP Recapitalization) of our operating partnerships (the Operating Partnerships) pursuant to the Asset Alignment and Limited Partnership Conversion Agreement and the Partnership Separation Agreement each dated November 2, 2012 by and among us, each of the Operating Partnerships and the limited partners of the Operating Partnerships (the Recapitalization Agreements). Pursuant to the agreements, following certain sales or transfers of assets among the Operating Partnerships and conversions of ownership interests, we will withdraw as the general partner of, and with respect to any general partner interest and any limited partner interests in, each of the Operating Partnerships, resulting in the non-converting limited partners (the Surviving LPs) having an ownership interest in the remaining Operating Partnerships, and with entities affiliated with Carl E. Berg holding a majority in interest of the interests in the remaining Operating Partnerships;

2. to consider and vote on the approval of the sale of substantially all of our assets following the OP Recapitalization (the Asset Sale) to M West Holdings, L.P., pursuant to the Agreement of Purchase and Sale and Escrow Instructions dated as of November 2, 2012 (the Sale Agreement);

3. to consider and vote on the approval of the liquidation and dissolution of our company, subject to and conditioned upon the approval and consummation of the OP Recapitalization and Asset Sale, following the closing of the Asset Sale (the Liquidation);

4. to consider and vote on a non-binding advisory proposal to approve compensation to certain executive officers in connection with the OP Recapitalization, the Asset Sale and the Liquidation; and

5. to consider and vote on the approval of the adjournment of the Special Meeting, if necessary or appropriate, to solicit additional proxies if there are insufficient votes at the time of the Special Meeting to approve any of Proposals 1, 2 or 3.

The Board of Directors (our Board) has set the close of business on November 2, 2012, as the record date for the determination of stockholders entitled to receive notice of and to vote at the Special Meeting and at any postponements or adjournments thereof.

More information about the OP Recapitalization, the Sale Agreement and Asset Sale, and the Liquidation and the other proposals is contained in the accompanying Proxy Statement and the accompanying Annexes, which we strongly encourage you to read in their entirety. After careful consideration, a committee of our independent directors and our Board has each unanimously approved the OP Recapitalization, the Asset Sale and the Liquidation, and each recommends that stockholders approve the OP Recapitalization, the Asset Sale and the Liquidation.

If the OP Recapitalization, the Asset Sale and the Liquidation are all approved by the stockholders, the Board expects to effect the Liquidation of our company as soon as reasonably practicable after the completion of the OP Recapitalization and the closing of the Asset Sale.

Table of Contents

Following completion of the OP Recapitalization and the closing of the Asset Sale, we intend to liquidate after satisfying outstanding debts, applicable taxes and related transaction costs. We currently estimate these transactions will result in a distribution to stockholders in the range of $9.20 to $9.28 per share in cash, although the amount ultimately distributed to stockholders may be below this range. The estimated distribution amount includes the sales proceeds, after liabilities and expenses, and the final 2012 dividend in accordance with statutory REIT distribution requirements.

The closing price of our common stock on November 23, 2012, the most recent practicable trading date prior to mailing this Proxy Statement, was $8.94 per share.

If stockholder approval is not obtained for each of Proposals 1, 2 and 3, none of the OP Recapitalization, the Asset Sale or the Liquidation will occur, and our common stock will continue to be listed and traded on the NASDAQ Stock Market, LLC.

Carl E. Berg, our Chairman and Chief Executive Officer, has agreed to vote any shares of our common stock that he owns in favor of the proposals. As of October 31, 2012, Mr. Berg owned 2,000,000 shares of our common stock, representing approximately 8.8% of the voting power of our common stock.

All of our stockholders are cordially invited to attend the Special Meeting in person. **However, to assure your representation at the Special Meeting, please submit your proxy as promptly as possible using one of the following methods: (1) through the Internet, (2) by telephone or (3) by marking, signing and dating the enclosed proxy card and returning it in the postage-paid envelope provided**. Any stockholder attending the Special Meeting may vote in person even if he or she has authorized a proxy to vote his or her shares using the Internet, telephone or proxy card.

BY ORDER OF THE BOARD OF DIRECTORS

/s/ Raymond V. Marino
Raymond V. Marino

Corporate Secretary

Cupertino, California

November 27, 2012

Neither the Securities and Exchange Commission nor any state securities regulatory agency has approved or disapproved the transactions disclosed herein, passed upon the merits or fairness of such transactions or passed upon the adequacy or accuracy of the disclosure in this document. Any representation to the contrary is a criminal offense.

Table of Contents

TABLE OF CONTENTS

Table of Contents

MISSION WEST PROPERTIES, INC.

10050 Bandley Drive

Cupertino, California 95014

PROXY STATEMENT

GENERAL INFORMATION

This Proxy Statement is furnished in connection with the solicitation by the Board of Directors (the Board) of Mission West Properties, Inc., a Maryland corporation, of proxies, in the accompanying form, to be used at the Special Meeting of Stockholders (the Special Meeting) to be held at our principal executive offices at 10050 Bandley Drive, Cupertino, California 95014 on December 13, 2012, at 10:00 a.m., Pacific Time, and any postponements or adjournments thereof.

This Proxy Statement and the accompanying form of proxy are being mailed to stockholders on or about November 28, 2012.

SUMMARY TERM SHEET

This summary briefly describes information included elsewhere in this Proxy Statement. This summary may not contain all of the information you should consider before voting on Proposals 1, 2, 3, 4 and 5 described in this Proxy Statement. We strongly encourage you to read the entire Proxy Statement carefully, including the attached Annexes. For your convenience, we have included cross references to direct you to a more complete description of the topics in this summary. In this Proxy Statement, we , us , our , the company , our company and Mission West ref Mission West Properties, Inc., unless the context otherwise requires. We refer to TPG Capital L.P. as TPG and Divco West Acquisitions, LLC as Divco. We refer to M West Holdings, L.P. as the Buyer.

Overview of the Transactions

Our stockholders are being asked to consider and vote on three proposals that, if approved, will result in the liquidation and dissolution of our company. The first proposal is to approve the recapitalization of our six operating partnerships. The second proposal is to approve the sale of substantially all of our assets to a third party following the recapitalization. The third proposal is to approve the liquidation of our company.

The OP Recapitalization (page 56)

In a series of transactions accomplished pursuant to the Asset Alignment and Limited Partnership Conversion Agreement dated November 2, 2012, by and among us, the Operating Partnerships (as defined herein) and the limited partners of the Operating Partnerships (each a Limited Partner, and collectively, the Limited Partners) and the Partnership Separation Agreement dated November 2, 2012, by and among us, the Operating Partnerships and the Limited Partners (collectively, the Recapitalization Agreements), certain of the real estate assets held by our six operating partnerships, Mission West Properties, L.P., Mission West Properties, L.P. I, Mission West Properties, L.P. II, Mission West Properties, L.P. III, Mission West Properties, L.P. IV and Mission West Properties, L.P. V (collectively, the Operating Partnerships), will be sold or transferred among the Operating Partnerships. In addition, certain limited partners of the Operating Partnerships may elect to tender their interests in the Operating Partnerships (the LP Units) pursuant to the Exchange Rights Agreement (as further described herein) and convert their LP Units into cash, shares of our common stock, par value $.001 per share, a combination of cash and stock, or by other means, including promissory notes issued in lieu of shares of common stock, if issuance of shares of common stock would cause us not to satisfy the REIT requirements of the Internal Revenue Code or would cause the tendering Limited Partner to exceed certain restrictions on ownership

Table of Contents

and transfer contained in our charter. Upon completion of these sales and conversions, we will withdraw as the general partner of each of the Operating Partnerships and with respect to any general partner interests or limited partner interests we hold in the Operating Partnerships and will acquire the exclusive right of possession of the Target Properties and certain other assets and liabilities. In addition, certain Operating Partnerships will retain their remaining assets and liabilities with an approximate net value of $525 million and the non-converting Limited Partners will retain an ownership interest in those Operating Partnerships, of which the Berg Group will hold a majority in interest. The transactions contemplated by the Recapitalization Agreements are referred to as the OP Recapitalization. If the OP Recapitalization and Proposals 2 and 3 are approved by our stockholders at the Special Meeting, we expect to consummate the OP Recapitalization as soon as practicable after the Special Meeting and immediately prior to the Asset Sale (as defined below). The Berg Group consists of Carl E. Berg, Mission West s Chairman of the Board and Chief Executive Officer, Clyde J. Berg, Kara Ann Berg, Berg & Berg Enterprises, Inc., Berg & Berg Enterprises, LLC, 1981 Kara Ann Berg Trust, West Coast Venture Capital, Inc., the Carl and Mary Ann Berg Charitable Remainder Trust, the Clyde J. Berg 2011 Charitable Remainder Trust and the Kara Ann Berg 2011 Charitable Remainder Trust.

The Asset Sale (page 69)

Pursuant to the Agreement of Purchase and Sale and Escrow Instructions (the Sale Agreement) dated as of November 2, 2012, by and between us and the Buyer, we have agreed to sell a significant portion of our assets (the Asset Sale) to the Buyer following completion of the OP Recapitalization, subject to stockholder approval. On the closing of the Asset Sale, the Buyer will pay to us approximately $399.6 million in cash (including $20 million in deposits made prior to the closing), plus or minus any proration or adjustment amounts, and assume debt and other obligations totaling approximately $397.9 million. If the OP Recapitalization, the Asset Sale and the Liquidation described below are approved by our stockholders at the Special Meeting, and all of the conditions to closing under the Sale Agreement have been met, we currently expect the Asset Sale to take place by December 27, 2012.

The Liquidation (page 83)

The Board has adopted a plan to liquidate our assets remaining after the completion of the OP Recapitalization and the Asset Sale (the Liquidation and, together with the OP Recapitalization and the Asset Sale, the Transactions). We currently estimate that the Transactions will result in a distribution to stockholders (and any holders of LP Units that elect to redeem their LP Units for common stock) in the range of $9.20 to $9.28 per share in cash, although the amount ultimately distributed to stockholders may be below this range. The estimated distribution amount includes the sales proceeds, after liabilities and expenses, and the final 2012 dividend in accordance with statutory REIT distribution requirements. We intend to complete the Liquidation as soon as practicable after the closing of the Asset Sale.

Independent Directors Committee

Because Carl E. Berg, our Chairman of the Board and Chief Executive Officer, and persons affiliated with Mr. Berg, as well as some of our officers and other members of our Board, have interests in the Transactions (including in the case of Mr. Berg, the Berg Group s ownership interest in the Operating Partnerships), our Board unanimously delegated to our Independent Directors Committee, which consists entirely of directors who are not officers or employees of our company and who have no economic interest in any of the Transactions (aside from their interest as stockholders of our company), the power and authority to, among other things, explore strategic alternatives available to us, review and evaluate the terms and conditions of any potential strategic transaction and make recommendations to the Board related thereto. The Independent Directors Committee was also given the power to retain and obtain advice from advisors and experts and to take any other actions it deemed to be advisable. No limitations were placed on the authority of the Independent Directors Committee to act on behalf of our holders of the issued and outstanding shares of our common stock who are not Affiliated Stockholders (the

Table of Contents

Unaffiliated Stockholders). The term Affiliated Stockholders means the Berg Group, holders of our common stock who are affiliated with the Berg Group and our executive officers. The Independent Directors Committee was charged with representing the interests of our Unaffiliated Stockholders and was actively involved in extended and numerous deliberations and negotiations regarding the Transactions on behalf of the Unaffiliated Stockholders. In this capacity, the Independent Directors Committee retained and received advice from Stifel, Nicolaus & Company, Incorporated (Stifel Nicolaus), as independent financial advisor, and Venable LLP (Venable), as independent legal advisor. The members of the Independent Directors Committee are William A. Hasler, Lawrence B. Helzel and Martin S. Roher, all of whom are independent directors of our company. The Independent Directors Committee members received no additional remuneration for their service on the committee, other than their annual director compensation of $25,000 plus $1,500 for attendance (in person or by telephone) at each meeting of the Board and $500 for attendance at each separate committee meeting. The Independent Directors Committee members are not entitled to and will not receive any incentive fee for approving the Transactions. As of November 14, 2012, Mr. Helzel earned $12,500 and each of Mr. Hasler and Mr. Roher earned $12,000 for their service on the Independent Directors Committee.

Reasons for the OP Recapitalization, the Asset Sale and the Liquidation and Factors Considered by the Independent Directors Committee in Determining Fairness (page 31)

In evaluating the Transactions and the other transactions contemplated by the Recapitalization Agreements and the Sale Agreement, the Independent Directors Committee consulted with our senior management, as well as our outside legal counsel and the Independent Directors Committee s own legal counsel and financial advisor, and considered a number of factors, including the following, among others:

- as described below Background of the Transactions beginning on page 15, the solicitation process undertaken by our company;
- the current and historical market prices of shares of our common stock, and the fact that a liquidating distribution of $9.20 per share of our common stock represented a premium of approximately 21.0% over our company s three-month average closing stock price and a premium of approximately 19.6% over our company s ten-day average closing stock price prior to December 20, 2011, the day before we announced that our company was exploring strategic alternatives;
- our company s future prospects, including market conditions, the future performance of our company s assets and the potential risks to successful execution of our business strategy; and
- Stifel Nicolaus opinion and financial presentation, dated November 1, 2012, to the Independent Directors Committee as to the fairness, from a financial point of view and as of the date of the opinion, of the proposed per share consideration to be received in the Liquidation by holders of our common stock, other than Affiliated Stockholders, as more fully described below under The Transactions Stifel, Nicolaus & Company, Incorporated, Financial Advisor to the Independent Directors Committee .

See the section entitled The Transactions Reasons for the OP Recapitalization, the Asset Sale and the Liquidation and Factors Considered by the Independent Directors Committee in Determining Fairness on page 31 for further discussion of the Independent Directors Committee s and the Board s reasons for the Transactions.)

Reasons for the OP Recapitalization, the Asset Sale and the Liquidation and Factors Considered by the Board in Determining Fairness (page 33)

In evaluating the Transactions and the other transactions contemplated by the Recapitalization Agreements and the Sale Agreement, the Board considered the recommendation of the Independent Directors Committee, consulted with our senior management, as well as our outside legal counsel and considered a number of factors, including the following, among others:

- the Board s understanding of the economic conditions in Silicon Valley;

Table of Contents

the favorability of the Transactions to our stockholders in comparison to other available potential strategic alternatives, including continuing to operate as an independent company;

the outcome of the lengthy and extensive bidding process undertaken by management;

Stifel Nicolaus opinion and financial presentation to the Independent Directors Committee as to the financial fairness of the proposed per share consideration to be received by holders of our common stock, other than Affiliated Stockholders; and

the approval and declaration of the Independent Directors Committee finding the Transactions in the best interests of our company and of our stockholders and its recommendation to the Board to approve the Transactions.

See the section entitled The Transactions Reasons for the OP Recapitalization, the Asset Sale and the Liquidation and Factors Considered by the Board in Determining Fairness on page 33 for further discussion of the Independent Directors Committee s and the Board s reasons for the Transactions.)

Recommendations of the Independent Directors Committee (page 36)

The Independent Directors Committee unanimously recommends that you vote FOR all matters put to a vote at the Special Meeting.

Recommendations of the Board (page 36)

The Board, based on the recommendation of the Independent Directors Committee, unanimously recommends that you vote FOR all matters put to a vote at the Special Meeting.

Opinion of Financial Advisor (page 37 and Annex A)

Stifel Nicolaus delivered an opinion to the Independent Directors Committee in connection with the sale of certain properties to the Buyer. The terms and conditions of the Transactions are more fully described in the Sale Agreement and the Recapitalization Agreements (collectively, the Transaction Agreements).

Stifel Nicolaus delivered its opinion to the Independent Directors Committee on November 1, 2012 that, based upon and subject to the factors, considerations, qualifications, limitations and assumptions set forth in the opinion, the consideration to be received in the Transactions pursuant to the Transaction Agreements by the Unaffiliated Stockholders was fair to such holders, from a financial point of view.

The full text of the written opinion of Stifel Nicolaus, dated November 1, 2012, which sets forth assumptions made, procedures followed, matters considered and limitations on the review undertaken in connection with the opinion, is attached as Annex A to this Proxy Statement. Our stockholders should read the opinion in its entirety, as well as the section of this Proxy Statement entitled The Transactions Opinion of Stifel Nicolaus & Company, Incorporated, Financial Advisor to the Independent Directors Committee beginning on page 37. Stifel Nicolaus provided its opinion for the information and assistance of the Independent Directors Committee in connection with the Independent Directors Committee s consideration of the Transactions. Stifel Nicolaus addressed its opinion to the Independent Directors Committee, and its opinion does not constitute a recommendation to any stockholder as to how such stockholder should vote at the Special Meeting with respect to the Transactions or as to any other action that a stockholder should take with respect to the Transactions.

Financing of the Asset Sale (page 43)

The Buyer estimates the total amount of funds required to complete the Asset Sale and related transactions, to be approximately $797 million, which represents the Purchase Price as defined in the Sale Agreement. This

Table of Contents

amount is expected to be provided through a combination of (1) assumption of existing indebtedness of approximately of $251 million, (2) obtaining new debt financing of approximately $138 million, and (3) equity contributions totaling approximately $408 million by the equity sponsors of the Buyer.

Interests of Management, Directors and Significant Stockholders in the OP Recapitalization, the Asset Sale and the Liquidation (page 45)

In considering the Transactions, you should be aware that some of our stockholders, directors and executive officers have interests in the Transactions that may be different from, or in addition to, your interests as a stockholder generally, including the following:

- in connection with the OP Recapitalization, certain of the real estate assets held by the Operating Partnerships will be sold or transferred among the Operating Partnerships, and the Berg Group will own substantially all of the LP Units of the remaining Operating Partnerships;
- as of October 31, 2012, Mr. Berg owned 2,000,000 shares of our common stock, representing approximately 8.8% of the voting power of our outstanding common stock;
- two of our executive officers will receive compensation in connection with completion of the Transactions; and
- our directors and executive officers, including Mr. Berg, also will be entitled to receive the same consideration for their shares of our common stock as the Unaffiliated Stockholders in connection with the Liquidation. As of October 31, 2012, our directors and executive officers held 2,371,500 shares of our outstanding common stock and options to purchase 2,039,438 shares of our common stock, which are fully vested and exercisable.

See The Transaction Interests of our Directors and Executive Officers in the Transactions beginning on page 45 and Proposal 4 Non-Binding Advisory Vote on Compensation Payments .

Conditions to Closing of the Asset Sale (page 74)

Mission West s and the Buyer s obligations to consummate the Asset Sale as set forth in the Sale Agreement are subject to the satisfaction or waiver of a number of closing conditions. For a detailed description of these conditions, please see Proposal 2: Asset Sale Conditions to Closing of the Asset Sale beginning on page 74.

Termination of the Sale Agreement (page 76)

We and the Buyer may, by mutual written consent, terminate the Sale Agreement and abandon the Asset Sale at any time prior to the closing, and the Buyer may terminate the Sale Agreement at any time on or prior to the business day immediately preceding the date the Special Meeting is held. The Sale Agreement may also be terminated and the Asset Sale abandoned at any time prior to the Closing by either us or the Buyer under certain circumstances.

Termination Fees and Expenses (page 77)

In connection with the termination of the Sale Agreement, we may be required to pay the Buyer a termination fee of up to $14 million or reimburse the Buyer for up to $2.5 million in expenses. Under certain circumstances, the Buyer may be required to forfeit its deposit of up to $20 million upon termination of the Sale Agreement.

Table of Contents

No Solicitation of Transactions (page 80)

The Sale Agreement contains restrictions on our ability to solicit or engage in discussions or negotiations with a third party regarding specified transactions involving us or our subsidiaries. We may, however, engage in such discussions or negotiations with a third party in response to an unsolicited written acquisition proposal that our Board, acting upon the recommendation of the Independent Directors Committee, determines in good faith (after consultation with outside legal counsel and its financial advisor) constitutes or is reasonably likely to result in a superior proposal and the failure to take such action with respect to such acquisition proposal would be inconsistent with the duties of the Independent Directors Committee under applicable law, subject to certain requirements and limitations specified in the Sale Agreement. The Independent Directors Committee has reserved a similar right to consider a superior proposal as to the OP Recapitalization.

Listing and Trading of Shares (page 86)

As a result of the proposed Transactions, we will cease to be a publicly-traded company. Following the filing of articles of dissolution with, and the acceptance for record by, the State Department of Assessments and Taxation of Maryland, our common stock will cease to be listed and traded on the NASDAQ Stock Market, LLC (NASDAQ), and will cease to be registered under the Securities and Exchange Act of 1934, as amended (the Exchange Act).

Use of Liquidation Proceeds (page 83)

Subject to the payment of the claims of creditors and any necessary reserves for unknown claims, the balance of the net proceeds from the Asset Sale will be available for distribution to our stockholders in the Liquidation. As of the date of this Proxy Statement, the Board expects to distribute, in the form of one or more liquidating distributions, between $9.20 and $9.28 per share in cash to stockholders and certain Limited Partners who elect to convert their LP Units into shares of our common stock as part of the OP Recapitalization.

Liquidation Procedure and Distributions (page 83)

In the event that the Asset Sale is consummated and the Liquidation is approved by our stockholders, our officers will be directed to commence our immediate liquidation. We will cease to carry on our business except to the extent necessary to wind up our company. All cash remaining after the discharge of or after making adequate provision for the discharge of, our debts, obligations and liabilities will be distributed in one or more liquidating distributions on a pro rata basis to stockholders on the record date to be determined by the Board (the Final Record Date). We may elect to transfer all of the cash and other assets to a liquidating trust (the Liquidating Trust) following the closing of the Asset Sale. The Board presently intends to pay an initial distribution to stockholders as soon as practicable following the Asset Sale, provided that at that time the Board is of the opinion that the expected reserve is adequate to provide for our obligations, liabilities (actual and contingent) and expenses. We currently expect a second, and final, distribution to stockholders will be made within approximately 12 months of the initial distribution. There can be no assurances as to the amount of any distribution, if any, or the timing of any distribution.

Certain Material U.S. Federal Income Tax Consequences (page 46)

Please see The Transactions Certain Material U.S. Federal Income Tax Consequences of the Transactions .

We recommend that you consult your personal tax advisor regarding the federal, state, local and foreign tax consequences to you of the proposed OP Recapitalization, Asset Sale and Liquidation.

Appraisal Rights (page 51)

Under Maryland law, stockholders will not be entitled to appraisal rights in connection with the proposed Transactions.

Table of Contents

Stockholder Vote Required to Approve Proposals 1, 2, 3, 4 and 5 (page 51)

Once a quorum has been established, each of Proposals 1 (approval of the OP Recapitalization), 2 (approval of the Asset Sale) and 3 (approval of the Liquidation) must be separately approved by the affirmative vote of the holders of shares of our common stock entitled to cast a majority of all of the votes entitled to be cast at the Special Meeting. In addition, Proposal 1 must be approved by the affirmative vote of the holders of shares of common stock entitled to cast a majority of all of the votes entitled to be cast on Proposal 1, disregarding (in the numerator and denominator) votes cast or entitled to be cast by the Buyer, Carl E. Berg, or any person who is a member of the immediate family of Carl E. Berg or any entity which is controlled by Carl E. Berg.

Under our bylaws, Proposals 4 (approval of certain executive compensation) and 5 (approval of adjournment of the Special Meeting, if necessary) require the affirmative vote of a majority of the votes cast at the Special Meeting.

Carl E. Berg, our Chairman of the Board and Chief Executive Officer, beneficially owns an aggregate of 2,000,000 shares, or approximately 8.8%, of our outstanding common stock as of October 31, 2012 and has entered into a voting agreement with the Buyer pursuant to which he has agreed to vote his shares in favor of each of Proposals 1, 2 and 3. The voting agreement terminates upon the termination of the Sale Agreement. No directors or executive officers have indicated a present intention to vote against any of the Proposals.

Where You Can Find More Information (page 100)

You can find more information about us in the periodic reports and other information we file with the Securities and Exchange Commission (SEC). The information is available at the SEC s public reference facilities and at the website maintained by the SEC at www.sec.gov. For a more detailed description of the additional information available, please see the section entitled Where You Can Find More Information beginning on page 100.

Table of Contents

QUESTIONS AND ANSWERS

The following questions and answers are intended to address briefly some commonly asked questions regarding the Special Meeting, the OP Recapitalization, the Asset Sale and the Liquidation. These questions and answers may not address all questions that may be important to you as a stockholder. Please refer to the Summary Term Sheet and the more detailed information contained elsewhere in this Proxy Statement, the Annexes to this Proxy Statement and the documents referred to in this Proxy Statement, which you should read carefully and in their entirety.

Q. When and where is the Special Meeting?

A. The Special Meeting will be held on December 13, 2012 at 10:00 a.m., Pacific Time, at our principal executive offices at 10050 Bandley Drive, Cupertino, California 95014.

Q. What am I being asked to vote on at the Special Meeting?

A. Stockholders are being asked:

Proposal 1: to consider and vote on the approval of the OP Recapitalization pursuant to the Recapitalization Agreements. Pursuant to the Recapitalization Agreements, following certain sales of assets and conversions of ownership interests, we will withdraw as the general partner of, and with respect to any general partner interests or limited partner interests in, each of the Operating Partnerships, resulting in the Surviving LPs having complete ownership interest in the remaining Operating Partnerships, and with the Berg Group holding a majority in interest of the remaining Operating Partnerships;

Proposal 2: to consider and vote on the approval of the Asset Sale;

Proposal 3: to consider and vote on the approval of the Liquidation;

Proposal 4: to consider and vote, on a non-binding advisory basis, on the approval of certain executive compensation; and

Proposal 5: to consider and vote on the approval of the adjournment of the Special Meeting, if necessary or appropriate, to solicit additional proxies if there are insufficient votes at the time of the Special Meeting to approve any of Proposals 1, 2 and 3.

In the Liquidation, any amounts remaining after payment of liabilities and expenses will be distributed in one or more liquidating distributions to our stockholders. If our stockholders do not approve each of Proposals 1, 2 and 3 described in this Proxy Statement, there will be no liquidating distribution to stockholders and our common stock will continue to be listed on NASDAQ.

Q. How does the Independent Directors Committee recommend that I vote?

A. The Independent Directors Committee unanimously recommends that you vote FOR each of Proposals 1, 2, 3, 4 and 5.

Q. How does the Board recommend that I vote?

A. The Board unanimously recommends that you vote FOR each of Proposals 1, 2, 3, 4 and 5.

Q. Who can vote at the Special Meeting?

A. The close of business on November 2, 2012, has been set as the record date (the Record Date) for determining the stockholders entitled to receive notice of and to vote at the Special Meeting. As of the Record Date, 22,674,020 shares of our common stock, par value $.001 per share, were outstanding and entitled to vote at the Special Meeting. Holders of common stock outstanding on the Record Date will be entitled to one vote for each share of common stock held.

Table of Contents

Q. What is a quorum?

A. The presence, in person or by proxy, of the holders of at least a majority of the outstanding shares of our common stock is necessary to constitute a quorum at the Special Meeting. For purposes of determining a quorum at the Special Meeting, abstentions and broker non-votes will be treated as present.

In the event that a quorum is not present, or if there are insufficient votes to approve the OP Recapitalization, the Asset Sale or the Liquidation at the time of the Special Meeting, it is expected that the Special Meeting will be adjourned pursuant to Proposal 5 to solicit additional proxies.

Q. What vote is required to approve Proposals 1, 2, 3 and 4?

A. Assuming the presence of a quorum, the affirmative vote of the holders of our common stock entitled to cast a majority of all of the votes entitled to be cast on such matters at the Special Meeting is necessary to approve each of Proposals 1, 2 and 3. In addition, Proposal 1 must be approved by the affirmative vote of the holders of shares of our common stock entitled to cast a majority of all of the votes entitled to be cast at the Special Meeting, disregarding (in the numerator and denominator) votes cast or entitled to be cast by the Buyer, Carl E. Berg, or any person who is a member of the immediate family of Carl E. Berg or any entity which is controlled by Carl E. Berg. Broker non-votes, if any, abstentions or failure to submit a proxy or vote in person at the Special Meeting will have the same effect as a vote AGAINST each of Proposals 1, 2 and 3. Approval of the advisory vote regarding the compensation of certain executive officers described in Proposal 4 requires the affirmative vote of a majority of the votes cast on the proposal. Broker non-votes, if any, abstentions or failure to submit a proxy or vote in person at the Special Meeting will not affect the result of the vote on Proposal 4.

Q. What vote of our stockholders is required to approve Proposal 5 to adjourn the Special Meeting, if necessary or appropriate, to solicit additional proxies?

A. The affirmative vote of a majority of the votes cast by holders of shares of common stock present in person or by proxy at the Special Meeting is necessary to adjourn the Special Meeting. Abstentions and broker non-votes, if any, will not be counted as votes cast on Proposal 5 and will have no effect on the result of this vote.

Q. How do I vote?

A. You may vote your shares at the Special Meeting by telephone, via the Internet, by mail or in person as described below. The Board recommends that you vote by telephone, via the Internet or by mail as it is not practical for most stockholders to attend the Special Meeting. Stockholders holding shares in street name through a bank or broker should follow the instructions on the voting instruction form received from the bank or broker.

Voting by Telephone or via the Internet. You can vote over the Internet or by telephone. Please follow the instructions provided on the proxy card or voting instruction card you receive.

Voting by Mail. You may vote by dating, signing and returning your proxy card or voting instructions in the enclosed postage-prepaid return envelope or in the envelope provided by your bank or broker, as applicable.

Voting at the Special Meeting. You may vote in person at the Special Meeting. If you hold shares of common stock in your name, giving a proxy will not affect your right to vote your shares if you attend the Special Meeting and vote in person. If you hold shares through a bank or broker, you must obtain a proxy, executed in your favor, from the bank or broker to be able to vote at the Special

Meeting. Voting by telephone, via the Internet or by mail will not limit your right to vote at the Special Meeting, if you decide to attend in person.

If you return your proxy, but do not mark your voting preferences, the proxy holders will vote your shares FOR Proposals 1, 2, 3, 4 and 5. If your shares are held in street name, and you return your signed voting

Table of Contents

instructions but do not indicate your voting preference for each Proposal on the voting card, your bank or broker will not be able to vote your shares on that Proposal at the Special Meeting.

Q. How can I change or revoke my vote?

A. Stockholders may revoke their proxies at any time before they are voted at the Special Meeting in any one of three ways:

by sending a properly signed written notice of your revocation to our Corporate Secretary at the address listed on page 1 of this Proxy Statement;

by submitting another proxy that is properly signed and bears a later date; or

by attending the Special Meeting and voting in person.

If your shares are registered in the name of a broker, dealer, commercial bank, trust company or other nominee you must contact your broker, dealer, commercial bank, trust company or other nominee to revoke your proxy.

Attendance at the Special Meeting will not itself revoke a previously submitted proxy.

Q. If a stockholder gives a proxy, how are the shares of common stock voted?

A. All proxies will be voted as specified on the proxy cards or voting instructions submitted by stockholders as long as they are properly submitted in accordance with our voting procedures and are received by us before the close of voting at the Special Meeting or any postponement or adjournment thereof. If no choice has been specified, a properly executed and timely proxy will be voted FOR Proposals 1, 2, 3, 4 and 5, which proposals are described in detail elsewhere in this Proxy Statement. If you do not return your voter information card to your broker or, if you do not provide your broker with instructions on how to vote your shares, your broker will not be able to vote your shares at the Special Meeting.

If your shares are registered in the name of a broker, dealer, commercial bank, trust company or other nominee, in order for your shares to be voted you must provide your broker, dealer, commercial bank, trust company or other nominee with specific voting instructions on Proposals 1, 2, 3, 4 and 5. If you do not provide specific instructions, your shares will not be voted as your broker, dealer, commercial bank, trust company or other nominee does not have discretionary voting power with respect to Proposals 1, 2, 3, 4 and 5.

Q. Who will cover the cost of the proxy solicitation?

A. The cost of soliciting proxies, including expenses in connection with preparing and mailing this Proxy Statement, will be borne by us. In addition, we will reimburse brokerage firms and other persons representing beneficial owners of our common stock for their expenses in forwarding proxy materials to such beneficial owners. Solicitation of proxies by mail may be supplemented by telephone, facsimile and other electronic means, and personal solicitation by our directors, officers or employees. No additional compensation will be paid to directors, officers or employees for such solicitation. At this time we have not engaged a proxy solicitor, however we may elect to do so in the future. If we do engage a proxy solicitor we will pay the customary costs associated with such engagement.

Q. What do I do if I receive more than one proxy or set of voting instructions?

A. If you hold shares of our common stock in street name and also directly as a record holder or otherwise, you may receive more than one proxy and/or set of voting instructions relating to the Special Meeting. These should each be voted and/or returned separately in accordance with the instructions provided in this Proxy Statement in order to ensure that all of your shares of common stock are voted.

Table of Contents

Q. What happens if I sell my shares of common stock before the Special Meeting?

A. If you transfer your shares of common stock after the Record Date but before the Special Meeting, unless special arrangements (such as provision of a proxy) are made between you and the person to whom you transfer your shares and each of you notifies us in writing of such special arrangements, you will retain your right to vote such shares at the Special Meeting but will transfer the right to receive the consideration to the person to whom you transfer your shares.

Q. What will I receive if the OP Recapitalization, the Asset Sale and the Liquidation are completed?

A. Our Board anticipates that each stockholder of record as of a date to be determined by the Board will receive a distribution in the range of $9.20 and $9.28 per share of our common stock. However, there are no assurances as to the amount of the distribution or the timing of any such distribution. The estimated amount of distribution includes the sales proceeds, after liabilities and expenses, and the final 2012 quarterly dividend in accordance with statutory REIT distribution requirements. Only stockholders of record on the Final Record Date will be entitled to a cash distribution.

Q: When do you expect the Asset Sale and related transactions to be completed?

A. If stockholder approval is obtained for each of Proposals 1, 2 and 3 the OP Recapitalization is expected to take place as soon as practicable following the Special Meeting, and the closing of the Asset Sale is expected to take place as soon as practicable following the completion of the OP Recapitalization. The Board has not established a firm timetable for the Liquidation and distribution to stockholders, if any, but expects to start the liquidation process as soon as practicable after the closing of the Asset Sale.

Q. How will the Board use the proceeds from the Asset Sale?

A. Following the closing of the Asset Sale, the Board plans to complete the Liquidation and distribute to those stockholders who hold shares of our common stock on the Final Record Date the remaining assets after payment of our outstanding debts and other obligations.

Q. What happens if the OP Recapitalization is not completed?

A. If stockholders do not approve the OP Recapitalization or the OP Recapitalization is not completed, we will not complete the Asset Sale or the Liquidation. In such event, our common stock will continue to be listed and traded on NASDAQ. The effectiveness of the OP Recapitalization is necessary for the Asset Sale because the Target Properties to be sold to the Buyer will be transferred to us in connection with the OP Recapitalization.

Q. What happens if the Asset Sale is not completed?

A. If the Asset Sale is not approved by our stockholders or if the Asset Sale is not completed for any other reason, the OP Recapitalization and the Liquidation will not be completed and stockholders as of the Final Record Date will not receive any payment for their shares of our common stock that they would have received upon completion of the Liquidation. In such event, our common stock will continue to be listed and traded on NASDAQ.

Under specified circumstances, we may be required to pay to the Buyer a termination fee and/or expense reimbursement, or we may be entitled to retain the deposit made by the Buyer, in connection with the termination of the Sale Agreement.

Table of Contents

Q. What happens if the Liquidation is not approved by stockholders?

A. If the Liquidation is not approved by our stockholders or if the Liquidation is not completed for any other reason, no liquidating distribution will be paid. In such event, our common stock will continue to be listed and traded on NASDAQ.

Q. Am I entitled to exercise appraisal rights instead of receiving the consideration from the Liquidation?

A. Under Maryland law, stockholders will not be entitled to appraisal rights in connection with the OP Recapitalization, the Asset Sale or the Liquidation.

Q. What do I need to do now?

A. Even if you plan to attend the Special Meeting, after carefully reading and considering the information contained in this Proxy Statement and the accompanying annexes, please vote promptly to ensure that your shares are represented at the Special Meeting. If you hold your shares of common stock in your own name as the stockholder of record, please vote your shares of common stock by

completing, signing, dating and returning the enclosed proxy card in the accompanying prepaid reply envelope;

authorizing a proxy using the telephone number printed on your proxy card; or

authorizing a proxy using the Internet voting instructions printed on your proxy card.

If you decide to attend the Special Meeting and vote in person, your vote by ballot will revoke any proxy previously submitted. If you are a beneficial owner of stock held in street name, please refer to the instructions provided by your bank, brokerage firm or other nominee to see which of the above voting choices are available to you.

Q. Should I send in my stock certificates now?

A. No. You will be sent a letter of transmittal promptly after the Final Record Date for the distribution has been set, describing how you may exchange your shares of common stock for cash. If your shares of common stock are held in street name by your bank, brokerage firm or other nominee, you will receive instructions from your bank, brokerage firm or other nominee as to how to effect the surrender of your shares of common stock. **In order to receive a distribution, you must be a stockholder on the Final Record Date to be established for the distribution. Please do NOT return your stock certificate(s) with your proxy or voting instructions.**

Q. Are there risks regarding any of the proposals?

A. Yes, please see Risk Factors and Cautionary Statement Concerning Forward-Looking Information for the risks related to the OP Recapitalization, the Asset Sale and the Liquidation.

Q. Who can help answer my other questions?

A. The information provided above in the summary term sheet and in the question and answer format is for your convenience only and is merely a summary of the information contained in this Proxy Statement. You should carefully read this entire Proxy Statement, including the documents annexed to this Proxy Statement and the documents we refer to in this Proxy Statement. If you have more questions about the Special Meeting or any aspect of the Transactions, you should contact: Mission West Properties, Inc., 10050 Bandley Drive, Cupertino, California 95014, Attention: Corporate Secretary or call us at (408) 725-0700.

Table of Contents

THE TRANSACTIONS

The Parties

Mission West Properties, Inc.

Mission West Properties, Inc. acquires, markets, leases, and manages research and development (R&D) properties, primarily located in the Silicon Valley portion of the San Francisco Bay Area. As of September 30, 2012, we owned and managed over 101 properties totaling approximately 7.6 million rentable square feet of R&D properties through six limited partnerships, or Operating Partnerships, for which we are the sole general partner. R&D property is designed for research and development and office uses and, in some cases, includes space for light manufacturing operations with loading docks. Microsoft Corporation and Apple, Inc. individually lease in excess of 300,000 rentable square feet from us. For federal income tax purposes we have operated as a self-managed, self-administered and fully integrated Real Estate Investment Trust (REIT) since 1999. Our executive offices are located at 10050 Bandley Drive, Cupertino, California 95014 and our telephone number is (408) 725-0700.

Carl E. Berg

Mr. Berg has served as Chairman of the Board and Chief Executive Officer of Mission West since 1997. Since 1979, Mr. Berg has been a general partner of Berg & Berg Developers, a real estate development company, and has been a director and officer of Berg & Berg Enterprises, Inc., a California corporation (BBE), for approximately the last 20 years. Mr. Berg has been actively engaged in venture capital investments and currently serves as Chairman of the Board of Directors of Valence Technology, Inc., a publicly traded company. Mr. Berg owned approximately 8.8% of our outstanding common stock as of October 31, 2012.

The Berg Group

The Berg Group consists of Carl E. Berg, Clyde J. Berg, Kara Ann Berg, Berg & Berg Enterprises, Inc., Berg & Berg Enterprises, LLC, 1981 Kara Ann Berg Trust, West Coast Venture Capital, Inc., the Carl and Mary Ann Berg Charitable Remainder Trust, the Clyde J. Berg 2011 Charitable Remainder Trust and the Kara Ann Berg 2011 Charitable Remainder Trust.

Carl E. Berg, certain members of his family and other affiliates hold a significant interest in our Operating Partnerships and have substantial control rights with respect to our company (the Affiliated Stockholders). For more information, please see Transactions with Related Person.

The Buyer

M West Holdings, L.P. (the Buyer) is a Delaware limited partnership that was formed by Divco West Acquisitions, LLC and TPG Capital L.P. for the sole purpose of entering into the Sale Agreement, arranging the related financing transactions and consummating the transactions contemplated by the Sale Agreement. The Buyer has not engaged in any business other than the activities incidental to its formation and in connection with the Asset Sale and other transactions contemplated by the Sale Agreement. The principal executive offices of the Buyer are located at c/o Divco West Real Estate Services, Inc., 575 Market Street, 35th Floor, San Francisco, California 94105, and its telephone number is (415) 284-5700.

The Transactions

OP Recapitalization

On November 2, 2012, we entered into an Asset Alignment and Limited Partnership Conversion Agreement (the Alignment Agreement) with each of our Operating Partnerships and the limited partners (the Limited

Table of Contents

Partners) of the Operating Partnerships. Also on November 2, 2012, Mission West, the Operating Partnerships and the Limited Partners entered into a Partnership Separation Agreement (the Separation Agreement). The Alignment Agreement and the Separation Agreement are collectively referred to as the Recapitalization Agreements.

Prior to consummating the transactions contemplated by the Recapitalization Agreements, Mission West will remain the general partner of, and continue to own general partnership interests in, each of the Operating Partnerships and members of the Berg Group will continue to hold a majority of the limited partnership interests in the Operating Partnerships. In connection with and prior to the OP Recapitalization, certain Limited Partners may choose to tender their interests in the Operating Partnerships (the LP Units) for shares of our common stock, cash or a combination thereof (in some instances, due to REIT regulations and the restrictions on ownership and transfer contained in our charter, certain Limited Partners may receive promissory notes in lieu of shares of our common stock; the notes will allow for the Limited Partner to participate in the proceeds of the Asset Sale and Liquidation (both as defined herein) in such amounts as if the LP Units had been converted to shares of our common stock). No tenders of LP Units by Limited Partners will be accepted at or after the close of the OP Recapitalization.

Pursuant to the Alignment Agreement, at the closing of the OP Recapitalization, certain of the real estate assets held by one of the Operating Partnerships will be transferred among three other Operating Partnerships in exchange for cash and promissory notes. Immediately upon completion of such transfers in exchange for the full right of possession of certain real property interests (the Target Properties), we will submit our general partner interests and any LP Units we hold for full redemption and cancellation and Limited Partners who choose not to tender their LP Units prior to the close of the OP Recapitalization (the Surviving LPs) will forfeit any rights they have to convert their LP Units into shares of our common stock. In addition, the Operating Partnerships will retain their remaining assets and liabilities with an approximate net value of $525 million, and the non-converting Limited Partners will retain their ownership interests in those Operating Partnerships, of which the Berg Group will hold in excess of 96%. The transactions contemplated by the Recapitalization Agreements are referred to as the OP Recapitalization.

In addition, under certain circumstances, we may consider other written, unsolicited transaction proposals received by us prior to the Special Meeting with respect to the properties not being purchased by the Buyer (the Retained Properties), if any such proposal is deemed a superior proposal by the Independent Directors Committee. The Board may also change its recommendation to stockholders if it receives a superior proposal. There are no termination fees associated with taking such actions, provided that we are able to consummate the Asset Sale pursuant to the terms of the Sale Agreement (as defined below).

Asset Sale

Also on November 2, 2012, Mission West and the Buyer entered into an Agreement of Purchase and Sale and Escrow Instructions (the Sale Agreement), pursuant to which we agreed to sell a significant portion of our assets (the Asset Sale) to the Buyer. The assets to be sold to the Buyer consist of all of the Target Properties and will represent substantially all of our assets following the OP Recapitalization. For a more detailed description of the Target Properties, please see Proposal 2: Asset Sale Assets to be Sold beginning on page 58. On the closing of the Asset Sale, the Buyer will pay to Mission West approximately $399.6 million in cash and assume debt and other obligations totaling approximately $397.9 million to acquire the Target Properties. If the Asset Sale and the OP Recapitalization are approved by our stockholders and satisfaction and/or waiver of the conditions to closing occurs, the closing of the Asset Sale is currently expected to take place by December 27, 2012. Completion of the Asset Sale is contingent upon the consummation of the OP Recapitalization. Each of us and the Buyer has made customary representations and warranties in the Sale Agreement. Completion of the Asset Sale is subject to customary closing conditions including, but not limited to, (1) approval of the Asset Sale by our stockholders, (2) the absence of any order or injunction prohibiting the consummation of the Asset Sale and (3) subject to certain materiality qualifications, the truth and correctness of each party s representations and warranties at closing. In addition, certain lenders must agree to the Buyer s assumption of certain loans in

Table of Contents

connection with the Asset Sale. Each party is permitted to terminate the Sale Agreement under certain circumstances as set forth in the Sale Agreement, including if the closing of the Asset Sale does not occur on or prior to December 27, 2012, and the Buyer may terminate the Sale Agreement at any time on or prior to the business day prior to the Special Meeting for any reason. Upon termination of the Sale Agreement in certain circumstances, we may be required to pay the Buyer expenses of up to $2.5 million or a termination fee of up to $14 million or the Buyer may be required to forfeit certain deposits of up to $20 million. In addition, under certain circumstances as set forth in the Sale Agreement, we may consider other written, unsolicited transaction proposals received by us prior to the Special Meeting, if any such proposal is deemed a superior proposal as defined in the Sale Agreement. The Board may also change its recommendation to stockholders if it receives a superior proposal. In either event, Mission West would be required to pay the Buyer a termination fee of $14 million and to return the Buyer s deposit.

Liquidation

Following completion of the OP Recapitalization and the Asset Sale, we will have transferred or disposed of substantially all of our assets and intend to liquidate (the Liquidation) pursuant to the plan of liquidation after satisfying outstanding debts and obligations, applicable taxes and related transaction costs. We currently estimate these transactions will result in a distribution to stockholders (and any holders of LP Units that elect to redeem their LP Units for common stock) in the range of $9.20 to $9.28 per share in cash, although the amount ultimately distributed to stockholders may be below this range. The estimated distribution amount includes the sales proceeds, after liabilities and expenses, and the final 2012 quarterly dividend in accordance with statutory REIT distribution requirements. To the extent they hold shares of our common stock at the time of a distribution, members of the Berg Group and our executive officers will be entitled to receive the same per share distribution as our other stockholders. The OP Recapitalization, the Asset Sale and the Liquidation are referred to as the Transactions.

Background of the OP Recapitalization and the Asset Sale

From time to time prior to the date of the Sale Agreement, our Board and members of our management team have considered various strategic opportunities intended to further the development of our business, including informally engaging in preliminary discussions and executing confidentiality agreements with other entities regarding various strategic alternatives, including potential business transactions or combinations.

From March 2011 until October 2011, eight independent parties approached Carl E. Berg, our Chairman of the Board and Chief Executive Officer, about possibly acquiring us or some portion of our properties. During this period of time, although Mr. Berg held discussions with these parties, no formal offers were made by these parties. Mr. Berg updated the Board at various meetings on the status of these discussions.

At a Board meeting held on April 14, 2011, the Board reviewed various strategic options for our business, including these indications of interest, and directed management to continue to evaluate these strategies. The Board continued such review at its meeting on July 13, 2011, and reaffirmed its direction to management.

On May 19, 2011, following the Board s April meeting, we entered into a confidentiality agreement with, and provided certain confidential information to, Company A. Discussion ensued between Company A and Mr. Berg acting on our behalf. Between July 2011 and late October 2011, we also entered into confidentiality agreements with each of four additional potential buyers, including Divco and TPG.

On August 10, 2011, Divco submitted an unsigned letter to us requesting a sixty-day exclusive negotiation period. We did not execute the letter and advised Divco that the Board was not interested in exclusive negotiations at that time.

By late August 2011, it became apparent that our portfolio of properties did not meet the goals of Company A, and we mutually agreed to discontinue discussions.

Table of Contents

On September 18, 2011, Divco submitted an unsigned letter to us again requesting a sixty-day exclusive negotiation period. Once again, we declined to execute the letter.

On September 23, 2011, the Board held a meeting to review the status of discussions with the various potential buyers, the strategic objectives of each party and the company and the various options available to us to maximize value for our stockholders. No conclusions were reached.

During September and October 2011, at the direction of the Board, Mr. Berg continued to have numerous calls and meetings with Divco. Divco had advised us that they were having discussions with TPG about various joint ventures and might consider having them join with Divco for an offer on a portfolio of our properties and asked if Mr. Berg would meet with TPG when he was in New York.

On October 5, 2011, Mr. Berg met in New York with representatives from TPG.

On October 11, 2011, Divco submitted an unsigned proposal to purchase our company and/or our assets and liabilities for $9.50 per share in cash, subject to due diligence. The proposal also called for a forty-five day exclusive negotiation period, as well as a thirty-day period immediately following execution of a definitive agreement during which we would be permitted to solicit superior offers, subject to the right of Divco to match any such superior offer and our agreement to pay a $30 million breakup fee, inclusive of up to $2 million in expense reimbursement, in the event we accepted another offer.

On October 12, 2011, the Board held a meeting at which Mr. Berg reported on his activities since the September Board meeting, his discussions with Divco and TPG, including Divco s October 11, 2011 proposal, and discussions with several additional potential buyers who had requested that we enter into confidentiality agreements. The Board discussed in detail the Divco offer, including the potential effect of the matching right and breakup fee on the possible interest in the company from other potential buyers. The Board discussed their duties in connection with considering a sale of the company, as well as the fact that Mr. Berg held a significant interest in the company and therefore could be considered an interested party in any proposed transaction. At this time, the existing Independent Directors Committee of the Board of Directors (Independent Directors Committee) consisting of William A. Hasler, Lawrence B. Helzel and Martin S. Roher discussed these developments, stated that they did not consider the company to be for sale at this time but were willing to consider all options for the company, and requested management to keep the Board informed. Mr. Berg informed the Board that he had contacted CBRE to assist in identifying additional qualified prospects that might be interested in a transaction with us. CBRE had advised Mr. Berg that they believed there were approximately one hundred qualified prospects available for a large property portfolio like that of our company. The Independent Directors Committee in discussion with Messrs. Berg and Marino determined that we should explore potential strategic opportunities, and directed management to meet with CBRE and request a proposal for a marketing strategy designed to reach the largest number of potential buyers to evaluate the market. The Independent Directors Committee also instructed Mr. Berg to contact Divco and inform them that we were rejecting their proposal and would instead pursue an open bidding process.

On December 3, 2011, Mr. Berg discussed with the Independent Directors Committee the need to complete a tax analysis before accepting any proposal to sell the properties held by the Operating Partnerships, as it was critical to both us and potential purchasers to fully understand the tax implications of any proposed transaction on us, our stockholders and the holders of the LP Units. Mr. Berg also recommended that we provide a complete bid package to each potential bidder that was willing to sign a confidentiality agreement, including each potential bidder that previously had indicated an interest in pursuing a transaction with us and that was willing to sign a confidentiality agreement. In this regard, Mr. Berg recommended that the Board establish an appropriate data room and that CBRE be engaged to manage that operation as well as the rest of the proposed marketing program for a flat fee of $50,000, with a further fee of $1 million payable only in the event a sale was consummated.

On December 9, 2011, the Board again considered the proposed marketing program, approving the retention of CBRE on the terms identified in the preceding paragraph and approved management s proposal to hire other

Table of Contents

third-party advisors to complete the physical and environmental inspections required for the data room at a projected cost of $250,000 to $300,000. The Board directed management to continue working with CBRE. In addition, the Board discussed how we could maximize the profits from existing contractual options to sell certain properties on McCandless Drive in Milpitas, California (the Lots). It was decided to include them in the bidding process and to guarantee any buyer net cash on a certain date so that we could obtain a bid that was close to the full value that would be realized by the company, assuming all such sales were consummated. Our company, using Mr. Berg as guarantor on our behalf, then guaranteed the potential bidders net cash on a certain scheduled date for the $93.88 million in potential sales proceeds for the Lots and included them in the initial bidding process. Ultimately, we removed these Lots from the bidding process and subsequently sold all but one Lot, which now is scheduled to be sold in December 2012. The value of these Lots were included in the original bids, but are excluded from the Purchase Price. A portion of the sales price for these Lots has been distributed as dividends, or used to complete certain asset acquisitions, and the balance has been used for other working capital purposes. From October 6, 2011 through the date of this proxy statement, we distributed an aggregate of $0.74 in dividends per share of common stock or distributions per LP Unit, respectively, in accordance with statutory REIT distribution requirements.

On December 21, 2011, in response to a two-day increase of nearly $0.49 ($7.87 to $8.36) in the closing price of our common stock, the Board directed management to announce the initiation of a process to identify potential qualified buyers for all or part of the company. A press release to that effect was issued by our company on December 21, 2011. In addition, the Board directed management to continue to explore appropriate structures for the sale of the properties held by our Operating Partnerships taking into account the potential value of such sales to both our stockholders and the holders of the LP Units as well as structures that would be appropriate for tax purposes.

On December 29, 2011, we engaged CBRE to act as marketing agent, to make the market aware of our offering (because the sale process at the time was expected to be structured as a stock sale, CBRE could not participate beyond a marketing role as they were not licensed to sell securities). CBRE conducted a broad-based marketing effort using the CBRE database, augmented by leads provided by several third-party brokers. Although authorizing the initiation of such process, the Independent Directors Committee had not yet determined to proceed with a sale of the company or the properties held by the Operating Partnerships.

On December 31, 2011, CBRE provided the Board with a copy of the property book, containing certain financial and property-level information, as well as the ability to access an online data room. Mr. Berg advised the Board that he had reviewed a draft of the CBRE marketing plan and believed the data room as well as the final marketing plan would be ready for consideration by the Board by early January. The Independent Directors Committee accessed the data room prior to its opening and reviewed materials contained therein. The Board also discussed retention of independent counsel.

At a meeting of the Board held on January 4, 2012, the Board determined that the Independent Directors Committee should be responsible for authorizing the initiation of the marketing effort by management and that the Independent Directors Committee should have independent legal counsel to advise it with respect to the independent interests of our company and stockholders in connection with any transaction, due to the potential special interests of the Berg Group in the matter (please see Interests of our Directors and Executive Officers in the Transactions).

At a meeting of the Board held on January 17, 2012, Mr. Berg reported that in early January management had emailed notices to approximately 112 real estate investment trusts (REITs), operating partnerships, investment funds and insurance companies soliciting interest in a potential strategic transaction and offering access to our data room upon delivery of an executed confidentiality agreement. Mr. Berg further reported that to date we had entered into over 50 such confidentiality agreements, and that the data room was near completion. A representative of Venable was present at the meeting at the request of the Independent Directors Committee and advised the Board regarding their duties under Maryland law. The Board unanimously delegated to the Independent Directors Committee the power and authority to, among other things, explore strategic alternatives

Table of Contents

available to us, review and evaluate the terms and conditions of any potential strategic transaction and make recommendations to the Board related thereto. The Independent Directors Committee was also given the power to retain and obtain advice from advisors and experts and to take any other actions it deemed to be advisable. Encouraged by the report of the enthusiastic response to our initial marketing efforts, the Independent Directors Committee authorized management to move forward with the strategic marketing effort to explore possibilities for the potential sale of our company or all or any part of its assets or Operating Partnerships.

As further described below, the Independent Directors Committee then engaged in an exhaustive process over many months, including over 25 meetings of the Independent Directors Committee, to determine whether it was advisable to engage in a strategic transaction and, if so, to consider the various strategic transactions available to us.

On January 19, 2012, CBRE sent a notice to each party that signed a confidentiality agreement providing access to the data room information and a schedule of dates for bus tours of the properties. CBRE also notified prospective bidders of dates they could self-tour the vacant properties. CBRE continued to request additional information and documents for the data room as they received questions from prospective bidders. CBRE continually notified prospective bidders of updates to the data room, responded to all questions, and set up meetings between management and prospective bidders.

During the balance of January, Mr. Berg, at the direction of the Independent Directors Committee, met with prospective bidders, provided additional information to CBRE and worked with tax and other advisors on the bidding package.

On February 1, 2012, the Board held a meeting at which Mr. Berg updated the Board on the response to the notices we sent to potential bidders in early January.

On February 6, 2012, at a telephonic meeting of the Independent Directors Committee, the Independent Directors Committee retained Venable as independent legal advisor to the Independent Directors Committee. After consideration of their relationships and business interests and other factors deemed relevant in evaluating each member s independence from us and our management, all members of the Independent Directors Committee confirmed their independence from us and our executive officers. The Independent Directors Committee reviewed our exploration of strategic alternatives to date and discussed retaining an independent financial advisor. Also, Venable reviewed our takeover defenses and the duties of the members of the Independent Directors Committee under applicable law and provided other general advice to the Independent Directors Committee.

On February 14, 2012, based on our discussions with CBRE as to the list of potential bidders, we emailed a bid package for a portfolio of our properties to more than 50 prospective bidders with a request for written or email responses by 5:00 p.m., Pacific Time, on February 22, 2012. This deadline was subsequently extended until 5:00 p.m., Pacific Time, on February 26, 2012. An additional bidder submitted a bid on February 27, 2012, which we also considered.

By February 27, 2012, we had received six bids ranging from $7.50 to $10.07 per share with the four highest bids being reasonably close to one another on both price and terms. We also had received indications from several other potential bidders that they would only be interested in submitting a bid at a price below $9.00 per share. After reviewing the bids, and in light of the fact that our common stock was trading at an average closing price of $10.03 per share for the prior 20-day trading period, the Independent Directors Committee directed management to request that each of the bidders increase its offer price and to determine the most qualified bid. Under the direction of the Independent Directors Committee, we solicited another round of bidding, which resulted in very little change in price and we also requested completion of a questionnaire from the top four bidders exploring their respective ability to close a transaction. Mr. Berg was directed to engage with each bidder to evaluate and report back to the Independent Directors Committee on the terms of each bid and the bidder s likely ability to close (including access to financing) a transaction.

Table of Contents

On March 15, 2012, Mr. Berg informed the Independent Directors Committee that, having engaged with each bidder, and based on the terms of the bids, he believed the Independent Directors Committee should proceed to negotiate with the top four bidders: the Buyer, Company B, Company C and Company D (the Finalists).

On March 16, 2012, the Board, including all members of the Independent Directors Committee, held a telephonic Board meeting to discuss the various bids. Mr. Berg informed the Board that based on his discussions with the bidders, three of the Finalists clearly preferred to buy only a portion of the portfolio of properties held by our Operating Partnerships (Target Properties), specifically excluding (1) the five-building campus located at 1065-1105 La Avenida in Mountain View, California, (2) 1040-1050 La Avenida in Mountain View, California, and (3) 20605-20705 Valley Green Drive, 10500 DeAnza Boulevard and 20400 Mariani Avenue, all located in Cupertino, California (the Excluded Properties). In addition, bidders were asked to provide a separate valuation on our property located at 5300 Hellyer Avenue located in San Jose, California (5300 Hellyer) in order for us to advise our 50% joint venture partner as to the value they would receive in a sale transaction. Mr. Berg proposed that final bid proposals be sent to the Finalists and that they be allowed to bid on the entire portfolio of properties of the company (Option #1) or have the option of purchasing the portfolio of properties held by the Operating Partnerships other than the Excluded Properties (Option #2). Mr. Berg proposed that if Option #2 were selected, the Berg Group would agree to retain the Operating Partnerships with the Excluded Properties in exchange for forfeiting their right to convert certain of their LP Units into shares of our common stock, in an amount equal to $525 million, assuming the Operating Partnerships could obtain a ten-year option with a buyer to purchase certain of the Excluded Properties from the Berg Group in exchange for a loan in an amount in excess of eighty percent (80%) of the purchase price for such properties from the option holder, which loan would be partially guaranteed by the Operating Partnerships or their limited partners (the Berg Proposal). Mr. Berg advised the Independent Directors Committee that if he could not obtain offers at this price, he would reduce his valuation of the Excluded Properties. Meeting separately, the Independent Directors Committee reviewed the proposals and concluded that the two option proposal was the best approach to maximizing value for our stockholders, that Option #2 would include the Berg Proposal. The Independent Directors Committee instructed management to proceed with the process to allow the Finalists to bid in accordance with the two options described above.

On March 22, 2012, we sent new bid proposals to the Finalists giving the bidders the option to bid on Option #1 or Option #2. Bidders were provided an overview of tax protection requirements for the limited partners (the Initial Tax Plan), which included requirements for any purchaser to provide qualified non-recourse debt as well as information that included a structure whereby the bidder was requested to pay for their purchase with a combination of cash and preferred limited partnership interests in the purchasing entity with an 8% annual return (the 8% Preferred LP Units). We asked for final bids to be submitted by 5:00 p.m., Pacific Time, on March 27, 2012. In addition to working with the Finalists, we continued responding to other bidders and told all bidders, including the active bidders from the first round such as Company E, that we would continue accepting bids until we had signed an exclusivity agreement. These bidders were also informed of Option #1 and Option #2. None of these other potential bidders submitted a bid.

Following March 22, 2012, Mr. Berg continued to talk with Company E, encouraging it to make a new proposal. Although Company E was not a Finalist (it was one of the lowest bidders), the Board believed that Company E was financially capable and was the most knowledgeable regarding our portfolio of properties.

On March 23, 2012, the Independent Directors Committee held a telephonic meeting at which it reviewed the status of the bidding process and discussed both the current marketing effort to identify potential qualified buyers for the sale of our company and the potential complexity of a transaction with regard to tax implications for the Berg Group and certain other holders of LP Units. The Independent Directors Committee also reviewed the Board s consideration of strategic alternatives, including recent discussions on maintaining the status quo and taking our company private, and reviewed the Board s discussions with management regarding strategic alternatives, including management s view that it was the right time to consider a sale of our company based on the current commercial R&D real estate market in Silicon Valley, California. Venable reviewed the duties of the members of the Independent Directors Committee under applicable law and provided other general advice to the

Table of Contents

Independent Directors Committee. The Independent Directors Committee again discussed hiring an independent financial advisor, the scope of services to be provided by an independent financial advisor to the Independent Directors Committee, fairness opinions and preferred qualifications of such an advisor, including expertise with respect to real estate investment trusts and real estate located in Silicon Valley. The Independent Directors Committee expressed its desire to obtain bids from several qualified investment banking firms to provide advice with respect to the financial terms of a transaction and, as appropriate, a fairness opinion.

By March 27, 2012, we received the first round of new bids from each of the Finalists as follows:

Company B indicated an offer of $10.08 per share for the company as a whole.

Company C indicated it would purchase either the entire portfolio of properties or the entire portfolio less the Excluded Properties. The offer indicated a total enterprise value of $1.3 billion and allocated $525 million to the Excluded Properties. Based on the assumptions in the final bid proposal regarding debt balances and other obligations, the value per share was approximately $8.84.

Company D indicated a willingness to purchase the entire portfolio of properties. The implied purchase price contemplated an offer of $9.15 per share, structured with 8.0% Preferred LP Units, and assumed a cash payment for stockholders and converting limited partners. Company D provided an allocation of its valuation assumptions that included an indicated value for the Excluded Properties of $525 million, dependent on certain of those assumptions.

The Buyer offered to purchase the entire portfolio of properties, less the Excluded Properties, for an implied value of $9.00 per share, allocating $4.95 per share for the Excluded Properties and $4.05 per share to the balance of the portfolio.

Between March 27 and April 16, 2012, we continued discussions with the four Finalists to try to improve their bids. On April 8, 2012, we were informed by Company B that it was withdrawing its bid due to the loss of its financial backer. We continued discussions with the three remaining Finalists. After six or more calls and three in-person meetings, however, Company C, the lowest bidder of the Finalists, stated it could not increase its bid. All of the bidders were not sure they could finance the requirement that they provide an unsecured seven-year loan to the Operating Partnerships at no interest, and it became apparent that the initial tax plan would be very difficult, if not impossible, to implement. After discussion with the Independent Directors Committee, an affiliate of Mr. Berg retained Ernst & Young LLP (E&Y) at the company s expense, to review the potential transactions and marketing strategy and present a plan that involved a real estate transaction and eliminated the requirement to acquire the company, which could have been very cumbersome due to the REIT tax rules which require any potential acquirer of the company as a whole to engage in extensive audits that could delay any transaction. Management believed that the initial tax plan would be extremely difficult to complete, but continued working with the top two bidders to increase their bids which resulted in the following:

Company D revised its bid to purchase the entire portfolio, excluding the Excluded Properties, for approximately $4.48 per share. The implied purchase price equaled $9.43 per share (assuming $4.95 per share attributable to the Excluded Properties). The transaction was to be structured with a cash payment for stockholders and converting limited partners with the Berg Group receiving 8.0% Preferred LP Units in lieu of cash. This proposal also stated the per share price would increase (making the same assumptions with respect to the Excluded Properties) to $9.56 per share if the 8.0% Preferred LP Units could be repriced as 7.0% Preferred LP Units (of which 5.0% would be paid annually and 2.0% would accrue). As described below, Stifel Nicolaus, whom the Independent Directors Committee later retained as its financial advisor, contacted Company D on October 22 and 23, 2012 to determine whether the bid submitted on March 27, 2012 was still an active offer to acquire our portfolio of properties and through such conversation clarified the structure of Company D s bid proposal. It was ultimately determined, through details provided by Company D, that the offer had an implied per share value of less than the Buyer s offer, when adjusted to account for the company s operations since the bid was received in order to accurately compare Company D s bid to the current transactions.

Table of Contents

The Buyer offered to purchase the entire portfolio, excluding the Excluded Properties and the McCandless land parcels. The implied purchase price equaled $9.75 per share, allocating $4.95 per share to the Excluded Properties, $0.89 per share to the McCandless land parcels, and $3.91 per share to the balance of the portfolio. Included in the Buyer s bid was a $31.0 million allocation to 5300 Hellyer. The Buyer provided an option whereby 5300 Hellyer could be added to the Excluded Properties at the allocated valuation, an option that was subsequently exercised.

As described in this Proxy Statement, we currently estimate the Transactions will result in a distribution to stockholders in the range of $9.20 to $9.28 per share in cash, although the amount ultimately distributed to stockholders may be below this range.

On March 28, 2012, the Board held a telephonic meeting to discuss the status of the offers. Concurrent therewith, the Independent Directors Committee held a telephonic meeting at which Mr. Berg and Raymond V. Marino, our President and Chief Operating Officer, Bingham McCutchen LLP (Bingham), our outside legal counsel at that time, and Venable were present by invitation of the Independent Directors Committee. Mr. Berg reviewed our marketing efforts to date and discussed the current bids and their respective bidders. The Independent Directors Committee then discussed certain terms of a potential transaction, including, among other things, termination fees, financing contingencies, buyer walk-away rights in the event of destruction or condemnation of properties, and liquidated damages, and discussed with Mr. Berg the possibility of a bid from a party who had yet to indicate an interest to us, which Mr. Berg felt was unlikely given the large number of potential bidders contacted. Bingham provided an overview of the proposed transaction structure and explained that the transaction included a possibility of the Berg Group retaining an interest in certain of our properties and contingent assets and liabilities, including ongoing company litigation, and that Mr. Berg might guarantee existing or new indebtedness on certain properties that might be retained. The Independent Directors Committee questioned Mr. Berg about the proposed transaction structure, then, after further discussion, unanimously directed that management, including Mr. Berg, focus on negotiating with Company B, as the current highest bidder, subject to Mr. Berg confirming, among other things, the strength of Company B s financing source. The Independent Directors Committee also directed that management should continue to negotiate with the other bidders to ensure that we had as many alternatives as possible in the event that the discussions with Company B were to terminate without a definitive agreement. The Independent Directors Committee then directed Venable to compile a list of recommended investment banking firms in order to assist the Independent Directors Committee in selecting a financial advisor.

Following the March 28th meeting, Mr. Roher and Venable contacted four prospective financial advisors on behalf of the Independent Directors Committee to determine each firm s willingness to be engaged as a financial advisor to the Independent Directors Committee and requested proposals from each with regard to their qualifications and fees.

On April 10, 2012, the Independent Directors Committee held a telephonic meeting at which they discussed Company B s withdrawal of its bid due to the loss of its financial backing and the remaining outstanding bids and potential acquirers. The Independent Directors Committee also discussed going private transactions and fairness of a transaction to stockholders unaffiliated with any buyer. The Independent Directors Committee determined that, notwithstanding the possibility that a definitive agreement might not be reached with a third-party bidder, the Independent Directors Committee was inclined to engage a financial advisor. Mr. Roher updated the Independent Directors Committee on his conversations with representatives from each of the four financial advisor candidates, and Venable discussed their views of the qualifications of each of the financial advisor candidates and the candidates respective proposals to serve as a financial advisor to the Independent Directors Committee. The Independent Directors Committee determined not to take any action with regard to a financial advisor until after the following day s meeting of the Board, at which the Independent Directors Committee would obtain more information about the status of the bidding process. The Independent Directors Committee also discussed with Venable issues relating to the amount and structure of the financial advisor candidates proposed fees.

Table of Contents

On April 11, 2012, immediately following the Board meeting, the Independent Directors Committee convened an in-person meeting and discussed the status of the bidding process and the proposed structure of the transaction, including the possibility that Mr. Berg and the Berg Group might purchase our properties that were currently leased to Tenant A and Tenant B (which properties were included in the Excluded Properties), if a potential acquirer of our assets determined to exclude such properties from a transaction. The Independent Directors Committee also noted that they were informed by Mr. Berg that another large portfolio of properties would be coming on the market for sale shortly that could compete with the company s sale process. The Independent Directors Committee discussed obtaining an independent appraisal of any properties that would be retained by Mr. Berg or the Berg Group and expressed a desire to obtain the advice of a financial advisor as to the merits of obtaining appraisals on any of our other properties. The Independent Directors Committee directed Mr. Roher to contact the financial advisor candidates to inform them of the revised transaction structure and to provide each an opportunity to adjust its proposal, if necessary. The Independent Directors Committee also discussed the qualifications of each of the four financial advisor candidates.

On April 16, 2012, Mr. Berg again advised the Independent Directors Committee that if both Tenant A and Tenant B rejected his proposal for an option to purchase their respective properties that were part of the Excluded Properties, then Mr. Berg reserved his right to adjust his $525 million valuation of the Excluded Properties. The Independent Directors Committee reserved its right to review any valuation at such time.

On April 18, 2012, the Board held a meeting to discuss the withdrawal of one of the Finalists and that two of the other Finalists, including the Buyer, were only interested in acquiring certain of our assets. Immediately following the Board meeting, the Independent Directors Committee convened a telephonic meeting and discussed the bid proposal from the Buyer and the proposed structure of a transaction, as presented at the Board meeting. The Independent Directors Committee discussed potential deal execution risks at length and reconfirmed its desire to obtain advice from a qualified financial advisor, including whether to obtain appraisals on the Excluded Properties and certain other properties held by the Operating Partnerships. The Independent Directors Committee discussed structuring the engagement with a financial advisor so that the company would not be responsible for all of the advisor s fees in the event that negotiations with the Buyer and all other bidders terminated without a definitive agreement. The Independent Directors Committee discussed at length with Venable what it believed to be the qualifications and reputations of each of the four financial advisor candidates and narrowed down the field of candidates to three. The Independent Directors Committee then directed Mr. Roher and Venable to contact the remaining financial advisor candidates to attempt to negotiate improved pricing as well as to inquire as to each candidate s anticipated timing to complete its fairness analysis and related work, and then to report back to the Independent Directors Committee on such discussions. After considering all of the bids and the information provided by Mr. Berg, the Independent Directors Committee indicated to the Board that it was in favor of proceeding with contract negotiations on an exclusive basis with the Buyer and instructed Mr. Berg to so proceed. The Independent Directors Committee authorized Mr. Berg to negotiate an exclusivity agreement with the Buyer and to work with company counsel to begin drafting a sale agreement.

Throughout the course of the next three weeks, Mr. Roher and Venable engaged in several further email and telephone communications with each of the three financial advisor candidates, including, among other things, with regard to each candidate s experience and knowledge of our company and the Silicon Valley real estate market in particular; the assistance the candidate would be prepared to provide to the Independent Directors Committee during its engagement; fees and terms of the engagement; and various other matters.

On April 22, 2012, at the direction of the Independent Directors Committee, we notified the other bidders that another bid had been selected and that contract negotiations had started.

The Independent Directors Committee convened a telephonic meeting on May 8, 2012, by which time one of the three remaining financial advisor candidates had voluntarily removed itself from consideration rather than increase its fee quote to a range that was no longer competitive, which it felt would otherwise be required as a result of the work that is typically required with the proposed structure of the transaction. The other two financial

Table of Contents

advisor candidates had submitted new bid proposals with improved pricing and terms for the Independent Directors Committee. At the meeting, the Independent Directors Committee reviewed the status of the negotiations with the Buyer thus far, then discussed the remaining two financial advisor candidates current proposals. After discussion, the Independent Directors Committee selected Stifel Nicolaus to serve as independent financial advisor to the Independent Directors Committee in connection with its exploration and consideration of strategic alternatives. The Independent Directors Committee based its decision to select Stifel Nicolaus on Stifel Nicolaus excellent reputation, knowledge of the company s real estate, experience in providing fairness opinions, Mr. Roher s recommendation based on his interaction with representatives of Stifel Nicolaus over the prior several weeks and Stifel Nicolaus competitive fee structure. The Independent Directors Committee then discussed with Venable the timing of a financial advisor engagement and determined to refrain from formally engaging Stifel Nicolaus until the Independent Directors Committee had received more information about exclusivity negotiations with the Buyer. The Independent Directors Committee unanimously authorized Mr. Roher to execute an engagement letter with Stifel Nicolaus, subject to review and comment by Venable, if the Buyer executed an exclusivity agreement with us.

During the next two weeks, the Independent Directors Committee and Venable negotiated the terms of an engagement letter with Stifel Nicolaus. On May 22, 2012, the Independent Directors Committee held a telephonic meeting at which it considered the material terms of the engagement letter with Stifel Nicolaus and discussed with Venable the open negotiation and business points with respect to the engagement letter. The issues discussed included, among other things, the scope of Stifel Nicolaus engagement, Stifel Nicolaus compensation and fee structure, the fairness opinion detailed in Stifel Nicolaus engagement letter and Stifel Nicolaus expense reimbursement. The Independent Directors Committee also discussed the fairness of the consideration to be received by our Unaffiliated Stockholders relative to the consideration that, based on the current proposed transaction structure, might be received or retained by the Berg Group and certain other holders of limited partnership interests. The Independent Directors Committee also considered obtaining appraisals on other properties retained by the Berg Group in the proposed transaction structure. Venable reviewed with the Independent Directors Committee the standard of conduct applicable to members of the Independent Directors Committee under applicable law in connection with their consideration of a possible change-in-control transaction. The Independent Directors Committee directed Venable to discuss the scope of the proposed fairness opinion with Bingham and report back to the Independent Directors Committee, at which time it would consider whether to approve the other provisions discussed at the meeting.

On May 9, 2012, following preliminary negotiations between the Buyer and us, we entered into an exclusivity agreement for sixty days for negotiation of definitive agreements.

During this period and continuing until execution of the Sale Agreement, the Buyer and its representatives conducted legal, financial and business due diligence on our company including a review of documents and other information in the data room. During that time, multiple in-person and telephonic meetings were held between various representatives of our management and representatives of the Buyer.

On May 31, 2012, the Board held a meeting to discuss the structure of the proposed transactions with our company, the Buyer and the Berg Group. Immediately prior to the meeting of the full Board, the Independent Directors Committee met separately to discuss the remaining open negotiating points on the Independent Directors Committee s engagement letter with Stifel Nicolaus and reached an agreement with Stifel Nicolaus, who joined the Board meeting by telephone. Also present at the Board meeting were Bingham, Venable and E&Y. E&Y explained the structure of the proposed transactions with our company, the Buyer and the Berg Group and discussed the associated tax-related risks and benefits. Stifel Nicolaus discussed the work that it would be performing in connection with the proposed transactions. At this meeting, it was the sense of the Board, including the Independent Directors Committee, to move forward with the transaction, including drafting and negotiating an agreement with the Buyer and continuing with the work of the Independent Directors Committee and its advisors. The engagement letter between Stifel Nicolaus and the Independent Directors Committee was executed as of June 6, 2012.

Table of Contents

Over the next several weeks, based on the data room materials and additional information requested and received from our management and other sources, Stifel Nicolaus began its preliminary financial analysis of our company and the prospective transactions. In addition, Stifel Nicolaus met in person with our management to discuss our operations and business, market trends, management s forecasts and the marketing and bidding process.

On June 13, 2012, the Independent Directors Committee held a meeting with Stifel Nicolaus and Venable to review the proposals Venable obtained, on behalf of the Independent Directors Committee, from three real estate appraisal firms to provide appraisals on the Retained Properties (the Property Appraisals) and certain of our other properties. The Independent Directors Committee discussed the proposals at length and decided to select Colliers International (Colliers) based on its qualifications, independence from us and our executive officers, reputation, experience in Silicon Valley real estate, ability to complete the Property Appraisals by the desired deadline and proposed fees. Stifel Nicolaus also provided an update to the Independent Directors Committee on its work, including its meetings with management to review the marketing process and the company s business and operations. Over the course of the next week, Venable, on behalf of the Independent Directors Committee, negotiated the terms of Colliers s engagement letter, which was executed on June 21, 2012.

On June 15, 2012, the Independent Directors Committee held a meeting at which it reviewed and discussed with Stifel Nicolaus and Venable Unaffiliated Stockholder protections to be considered for possible negotiation and inclusion in the prospective transaction agreements. The Independent Directors Committee discussed at length which protections would be consistent with the proposed transaction structure and advisable to include in an agreement with either the Buyer or the Berg Group.

On June 22, 2012, the Independent Directors Committee met again to review and discuss the process.

On June 22, 2012, we provided the Buyer with an initial draft of a Sale Agreement for their review and negotiation.

On June 26, 2012, we engaged Pillsbury Winthrop Shaw Pittman LLP (Pillsbury) to represent us in connection with the transactions being considered and certain other company legal matters in lieu of Bingham.

On June 26, 2012, the Independent Directors Committee held a meeting with Stifel Nicolaus to review the list of properties to be appraised by Colliers, the Independent Directors Committee s assessment that the proposed transaction was worth pursuing further for our stockholders, certain Unaffiliated Stockholder protections previously circulated by Venable and the timeline for the transaction. The Independent Directors Committee also informed Stifel Nicolaus of the company s engagement of Pillsbury as counsel to the company in connection with the proposed transaction.

On July 6, 2012, our exclusivity agreement with the Buyer expired, but the parties continued to negotiate the Sale Agreement.

On July 11, 2012, the Board held a meeting at which Mr. Berg updated the Independent Directors Committee on his discussions with the Buyer, and the Independent Directors Committee provided Mr. Berg direction with respect to the items under discussion. Mr. Berg also updated the Independent Directors Committee on his discussions with Tenants A and B.

On July 14, 2012, we provided the Buyer with a further draft of the Sale Agreement for their review and negotiation.

On July 20, 2012, the Independent Directors Committee received draft Property Appraisals from Colliers. The Independent Directors Committee, Stifel Nicolaus and Venable reviewed the reports over the next several weeks.

Table of Contents

On numerous occasions between July 2012 and October 2012, representatives of the company, Pillsbury, Venable, the Buyer and Buyer s counsel Gibson, Dunn & Crutcher LLP (Gibson) and Skadden, Arps, Slate, Meagher & Flom LLP (Skadden), participated in discussions and exchanged drafts and correspondence negotiating the terms of a possible transaction, focusing primarily on the provisions of the Sale Agreement.

By July 31, 2012, Mr. Berg had been informed by both Tenant A and Tenant B that they were not interested in purchasing their respective buildings that were part of the Retained Properties. Mr. Berg reported these discussions to the Independent Directors Committee.

On August 5, 2012, Mr. Berg notified the Independent Directors Committee that he had adjusted the valuation of the Retained Properties based on his knowledge of market pricing, valuation, market conditions, his discussions with Tenant A and Tenant B, and his review of the Colliers real estate valuations for those assets prepared at the request of the Independent Directors Committee. Mr. Berg informed the Independent Directors Committee that the Berg Group and other limited partners would forfeit their right to convert LP Units into shares of our common stock in an amount equal to $495 million for the Retained Property including $31 million for 5300 Hellyer, which was a total amount that nevertheless exceeded the Independent Directors Committee s independent third-party valuation by Colliers for the Retained Properties by over $19 million (including 5300 Hellyer, or $14 million without it). This exchange would be effected through the recapitalization of the Operating Partnerships. Mr. Berg and the Independent Directors Committee continued to negotiate the terms of the Berg Proposal while also negotiating with the Buyer the final terms of the Asset Sale.

On August 7, 2012, the Independent Directors Committee met with Venable to discuss Mr. Berg s reduced valuation on Retained Properties. The Independent Directors Committee discussed Unaffiliated Stockholder protections and their duties under applicable law. The Independent Directors Committee also discussed their negotiating strategy with respect to maximizing the price per share to the Unaffiliated Stockholders in any transaction. The Independent Directors Committee also considered alternatives to the proposed transaction, including recommending that the Board not approve any transaction.

On August 9, 2012, the Independent Directors Committee met with Mr. Berg to discuss the Berg Proposal, including price. The negotiations were characterized by the Independent Directors Committee as vigorous, but did not result in Mr. Berg changing his valuation of the Retained Properties.

At a telephonic meeting of the Independent Directors Committee held on August 10, 2012, the Independent Directors Committee reviewed Mr. Berg s reduction in his valuation of the Retained Properties again and discussed its position with regard to such reduction. The Independent Directors Committee discussed with Stifel Nicolaus its possible fairness opinion relating to the proposed transactions and the effect of the price reduction on the bidding and sale process, Mr. Berg s role in the process, changing market conditions and the possible outcome of a remarketing of the Retained Properties. Stifel Nicolaus then reviewed the results of the Colliers appraisals as they related to Mr. Berg s valuations of the Retained Properties, which appraisals were approximately $19 million (including 5300 Hellyer) below Mr. Berg s revised valuation on the Retained Properties including 5300 Hellyer. The Independent Directors Committee also considered the possible effect on the value of our company of the contemplated transactions being delayed or ultimately not consummated. Stifel Nicolaus then reviewed its preliminary analysis with respect to the valuation and fairness of the prospective transactions with the Buyer. The Independent Directors Committee discussed obtaining the best possible value for the Unaffiliated Stockholders and discussed its negotiating strategy with respect to its next meeting with Mr. Berg. The Independent Directors Committee then discussed with Venable and Stifel Nicolaus possible alternative transaction structures for Mr. Berg s prospective transaction with us. The Independent Directors Committee directed Venable to contact Pillsbury to discuss the Independent Directors Committee s requirements that certain Unaffiliated Stockholder protections were to be included in the draft Sale Agreement between the Buyer and the company, and Stifel Nicolaus advised that it would continue working with our management to update certain information needed for Stifel Nicolaus financial analysis. The Independent Directors Committee also directed Venable to contact Colliers to finalize the Property Appraisals.

Table of Contents

At a telephonic meeting of the Independent Directors Committee held on September 7, 2012, the Independent Directors Committee, Stifel Nicolaus and Venable further discussed Mr. Berg s adjustment of his valuation of the Retained Properties. Stifel Nicolaus reviewed its analysis comparing each of the three highest Finalist bids, which Stifel Nicolaus advised included balance sheet and other relevant adjustments to account for the company s operations and cash flow since the initial bids were received and in order to accurately compare each of the bids to one another. The Independent Directors Committee considered its negotiating strategy with respect to Mr. Berg s adjusted valuation, then discussed with Stifel Nicolaus and Venable the relative benefits and risks of a *de novo* remarketing of all of our properties and a remarketing of solely the Retained Properties, including, among other things, the potential risk of the Buyer deciding to terminate negotiations and the potential negative effect on our stockholders should our stock price decline due to failed negotiations. The Independent Directors Committee expressed its concerns that a *de novo* remarketing would produce a worse result for our Unaffiliated Stockholders. The members of the Independent Directors Committee reviewed with Venable their duties as members of the Independent Directors Committee under applicable law. The Independent Directors Committee directed Stifel Nicolaus to work to finalize its updated bid and valuation analyses and directed Venable to review and discuss with Pillsbury the revised draft Sale Agreement.

On September 13, 2012, the Independent Directors Committee held a telephonic meeting at which the Independent Directors Committee discussed its prior meeting with Mr. Berg, in which the Independent Directors Committee pressed Mr. Berg during an approximately four hour meeting to increase his valuation on the Retained Properties and therefor forfeit a greater number of rights to convert LP Units into shares of our common stock. However, based on several factors, including the negative responses from Tenants A and B to acquire their properties at those values, Tenant B s lease for in excess of 500,000 square feet was scheduled to expire in August 2014 and the fact that Tenant B was unwilling to engage in lease renewal discussions, as well as the Colliers Property Appraisals indicating that they were worth considerably less than the initial estimates, Mr. Berg declined to do so. The Independent Directors Committee discussed its views of the market conditions for our properties, including its views that substantial submarkets were likely to continue with poor performance and substantial vacancies, and increased development of Class A space in many Silicon Valley submarkets. The Independent Directors Committee expressed their views that it was likely that our public stock price would decline significantly if no strategic transaction was consummated. The Independent Directors Committee then discussed whether the current proposals from the Buyer and the Berg Group were fair to the Unaffiliated Stockholders and constituted the best alternative available for the Unaffiliated Stockholders, considering all of the circumstances, including, among other things, the risks being assumed by Mr. Berg with respect to Tenant B possibly deciding not to renew its lease in 2014. The Independent Directors Committee then discussed with Venable the risks and potential benefits of informing the bidders of the change in assumed value for the Retained Properties. The Independent Directors Committee discussed Mr. Berg s blocking rights with respect to any sale of the company and the Berg Group s desired tax structure. The Independent Directors Committee acknowledged that Mr. Berg had verbally presented Company D, the next highest bidder, with the general terms of the real estate transaction and after considering those terms, Company D advised they would not be submitting a new bid. Upon advice from Stifel Nicolaus, the Independent Directors Committee determined that it would schedule a meeting with CBRE to review the marketing process and to further inform themselves of CBRE s views on the Silicon Valley real estate market and submarkets, including valuation of the Retained Properties. The Independent Directors Committee then discussed the terms of the draft Sale Agreement with the Buyer, including, among other things, the termination fee payable by us and the Buyer s potential option to terminate the Sale Agreement. The Independent Directors Committee considered the likelihood that an agreement could be reached with the Buyer without such an option. The Independent Directors Committee directed Venable to obtain additional information from the Buyer s counsel with respect to the ability of Buyer to terminate the Sale Agreement prior to the Stockholder Meeting (Walk Rights) and to attempt to negotiate more favorable window shop, termination fee and Walk Rights provisions in the Sale Agreement. The Independent Directors Committee directed that Venable continue working with Pillsbury on the unresolved issues in the draft Sale Agreement with the Buyer to try to achieve the best outcome for the Unaffiliated Stockholders.

Table of Contents

On September 14, 2012, Stifel Nicolaus had a call with Mr. Berg to review certain financial information, which impacted Stifel Nicolaus bid analysis.

On September 24, 2012, Venable and Pillsbury held a telephonic meeting with the Buyer s counsel to discuss open issues in the Sale Agreement with the Buyer, including certain Walk Rights afforded to the Buyer. Counsel for the Buyer explained that the Walk Rights were offered by us as a solution to stalled negotiations related to the Buyer s insistence on indemnification from the company, which we and the Independent Directors Committee found unacceptable. After this call, principals of the Buyer informed Mr. Berg that without the current Walk Rights afforded to the Buyer in the Sale Agreement, the Buyer would not be willing to enter into an agreement with our company to purchase the Target Properties, and, instead, would terminate negotiations.

On September 25, 2012, Mr. Helzel and Mr. Roher held an in-person meeting with representatives of CBRE and Stifel Nicolaus, with Venable participating by telephone, to discuss the marketing and bidding process for our properties. Mr. Helzel and Mr. Roher also questioned the CBRE representatives about general market conditions for purchasing and leasing Silicon Valley real estate and about sale and lease prospects with regard to our properties in general and, in particular, among others, the Retained Properties. Immediately following this meeting, Mr. Helzel and Mr. Roher met separately with Stifel Nicolaus and Venable to review and consider the information discussed in the meeting with CBRE, including that the CBRE representatives felt that the initial valuation of $525 million by Mr. Berg on the Retained Properties was too high and CBRE s opinion that a current tenant of a property would be likely to provide the highest valuation for any given property which was a factor in the original valuation by the Berg Group for the Retained Properties. In addition, the continued delay by the City of Mountain View, California, to consider our request for re-zoning of the Tenant B property barred expansion and, therefore, had a negative effect on the value of our land adjacent to such property. On the other hand, since CBRE noted that there had been no material change in the real estate submarkets where the Retained Properties were located during the marketing process through the present timeframe, the Independent Directors Committee could conclude that Company D s valuation of the Retained Properties would be unchanged. Messrs. Roher and Helzel confirmed their consensus that the Independent Directors Committee should continue to press Mr. Berg to increase his revised valuation on the Retained Properties and for the Independent Directors Committee to authorize Stifel Nicolaus to contact Company D to confirm its bid generally and specifically in regard to the Retained Properties.

On September 27, 2012, the Independent Directors Committee held a telephonic meeting at which Venable updated the Independent Directors Committee on the status of negotiations of the Sale Agreement with the Buyer, including, among other things, the Buyer s rights to terminate the agreement, the termination fees and the definition of a superior proposal for purposes of the no-shop and fiduciary out provisions. The Independent Directors Committee directed Venable to attempt to negotiate amendments to the Walk Rights and other provisions that would be more favorable to the company and our stockholders. The Independent Directors Committee and Stifel Nicolaus discussed Stifel Nicolaus financial analysis comparing the last proposals from each of the Finalists, as adjusted to account for the company s operations since such bids were received, which adjustments were necessary in order to accurately compare each of the bids to one another. Stifel Nicolaus advised the Independent Directors Committee to contact Company D for more information on the terms of its bid and to find out whether its offer was still open. The Independent Directors Committee discussed the risks and benefits of engaging Company D, including the possibility that the Buyer could terminate negotiations and that Mr. Berg (assuming he learned that Company D was no longer interested in a transaction to acquire our properties) could attempt to further lower his valuation on the Retained Properties. At the Independent Directors Committee s request, Venable reviewed the duties of the members of the Independent Directors Committee under applicable law. The Independent Directors Committee also discussed Mr. Berg s blocking rights as a controlling stockholder (assuming full conversion of LP Units), and the importance of the Independent Directors Committee exploring all available strategic alternatives, including the possibility of the Independent Directors Committee deciding not to approve a transaction. The Independent Directors Committee also reviewed their meeting with CBRE on September 25 and discussed their conclusions, including that it would be beneficial to contact Company D to confirm its bid to determine whether the Buyer transaction combined with the valuation offered by Mr. Berg on the Retained Properties was superior to Company D s bid.

Table of Contents

On October 2, 2012, Pillsbury, Stifel Nicolaus and Venable held a telephonic meeting with the Buyer s counsel to discuss the Buyer s termination rights. Ultimately, the Buyer s counsel agreed to revise the Buyer s unqualified right to terminate the agreement so that such right expires prior to the stockholders meeting held to consider and vote upon the proposed transaction, rather than after such meeting.

On October 10, 2012, the Independent Directors Committee met with Mr. Berg to discuss price again. However, Mr. Berg refused to increase his valuation on the Retained Properties. Mr. Berg insisted that he had offered both Tenant A and Tenant B the opportunity to purchase their respective properties, but neither party accepted such offer. Mr. Berg also explained that he did not believe the prior transaction structure would work from a tax planning perspective and could not be completed in time to meet a December 31, 2012 closing date. Mr. Berg noted that he had worked with E&Y on a revised transaction structure to sell all or substantially all of the company s assets, financed with a loan from the Buyer. The following day, Stifel Nicolaus met telephonically with Mr. Berg to discuss price and other matters, but, again, Mr. Berg would not agree to increase his valuation on the Retained Properties.

On October 10, 15 and 19, 2012, the Board held meetings to discuss the status of the Sale Agreement and Mr. Berg updated the Independent Directors Committee on the remaining open issues. Mr. Berg also discussed the anticipated timing of signing the Sale Agreement. The Independent Directors Committee provided Mr. Berg with direction as to the negotiation of open issues.

At a telephonic meeting of the Independent Directors Committee on October 14, 2012, Stifel Nicolaus recounted the details of its telephonic meeting with Mr. Berg on October 11, 2012. The Independent Directors Committee then discussed with Venable the possible timing of the prospective transactions and the draft Sale Agreement between the Buyer and the company. The Independent Directors Committee directed Stifel Nicolaus and Venable to contact E&Y to clarify the tax implications of the transaction structure proposed by E&Y and the initial transaction structure proposed by Bingham. The Independent Directors Committee felt it needed to better understand whether any transaction to acquire our entire company could be structured to accomplish the Berg Group s tax planning, including whether Company D s proposed structure was feasible. Based on this information, the Independent Directors Committee would further consider whether to direct Stifel Nicolaus to contact Company D to clarify whether Company D was in fact still interested in bidding for the company s assets, and if so to clarify the structure, price and other terms of its bid.

On October 18, 2012, Mr. Berg provided the Independent Directors Committee, Venable and Pillsbury with the first drafts of the Recapitalization Agreements.

On numerous occasions between October 18 and November 1, 2012, with the assistance of Venable and Pillsbury, the Independent Directors Committee negotiated the Recapitalization Agreements with Mr. Berg. In addition, we discussed the Recapitalization Agreements with the Buyer.

On October 19, 2012, the Independent Directors Committee held an in-person meeting with Pillsbury and connected Venable by telephone to review and discuss the draft Sale Agreement between us and the Buyer. After a lengthy discussion, the Independent Directors Committee directed Venable to make certain changes to the Sale Agreement and send the same to Pillsbury for further distribution to the Buyer s counsel. The Independent Directors Committee then directed Pillsbury to review and revise the draft Recapitalization Agreements and then send the revised Recapitalization Agreements to Venable for its review and comment.

Over the next several days, Stifel Nicolaus, Venable and Pillsbury negotiated with Mr. Berg on the terms and conditions of the draft Recapitalization Agreements, including, among other provisions, the structure of the contemplated transactions, a non-waivable majority-of-the-Unaffiliated Stockholder approval requirement, directors and officers insurance and fiduciary-out provisions that mirrored the Sale Agreement.

On October 20 and 21, 2012, E&Y, Stifel Nicolaus and Venable held two telephonic meetings to review the current and prior proposed transaction structures and to clarify the tax implications of each. It was determined

Table of Contents

from these conversations that both structures worked from a tax perspective for the Berg Group. On October 21, 2012, the Independent Directors Committee authorized Stifel Nicolaus to contact Company D to confirm its bid, including if Company D was willing to purchase the Retained Properties. On October 22 and 23, 2012, Stifel Nicolaus contacted Company D. As a result of these telephone calls, it became apparent that Company D was only interested in the Target Properties and had assumed the Retained Properties would be sold. Company D confirmed that, while it bid on the entire portfolio, Company D assumed that there would be a pre-sale of the Retained Properties and did not actually desire to purchase the Retained Properties for $525 million. Company D also indicated that the bid increase from $9.15 to $9.43 per share between March 27 and April 16 was reflective, in large part, of certain assumptions regarding the treatment of minority interests in joint venture properties, which Company D believed, based on conversations with Mr. Berg, were necessary for comparability with other bids. Thereafter, and based on its call with Company D, Stifel Nicolaus revised its bid analysis, which, after adjustments to account for the company s operations since the initial bids were received and in order to accurately compare Company D s bid to the Buyer transaction, resulted in a re-valuation of the bid by Company D that was less than the Buyer s bid.

On October 29, 2012, the Board held a meeting at which time Mr. Berg and Pillsbury updated the Board on the status of the negotiations and the various agreements. Immediately following the Board meeting, the Independent Directors Committee met with Venable by telephone to discuss the Recapitalization Agreements. The Independent Directors Committee also discussed whether sale of the company s assets was the best strategic alternative for the company.

On October 30, 2012, the Independent Directors Committee held a telephonic meeting at which Venable updated the Independent Directors Committee on the status of negotiations concerning the open issues on the draft Recapitalization Agreements. Later that day, company management, including Mr. Berg, Pillsbury, Stifel Nicolaus, Venable and E&Y reviewed the Partnership Separation Agreement and the schedules thereto by telephone.

On October 31, 2012, the Independent Directors Committee held a telephonic meeting with Pillsbury and Venable to review certain open items to the Recapitalization Agreements.

On November 1, 2012, the Independent Directors Committee held a special meeting by videoconference to consider and vote upon the proposed Recapitalization Agreements and the Sale Agreement, which had been reviewed, commented on and negotiated by the Independent Directors Committee in advance of the meeting. At the meeting, at the request of the Independent Directors Committee, Pillsbury provided an update on the status of the prospective sale of our assets, including with regard to the draft transaction agreements. Venable reviewed the duties of the members of the Independent Directors Committee under applicable law. At the request of the Independent Directors Committee, Stifel Nicolaus reviewed in detail its financial analysis of our company and the proposed transactions and discussed the bases for and assumptions in such analyses. Stifel Nicolaus informed the Independent Directors Committee that, subject to review of the final transaction agreements and preparation of Stifel Nicolaus final presentation and written opinion, and assuming there were no subsequent material changes in the facts or terms of the transaction agreements that would impact Stifel Nicolaus valuation analyses, Stifel Nicolaus would deliver an oral opinion, to be subsequently confirmed in writing, that, based on and subject to the assumptions and limitations contained in its written opinion, as of the date of the meeting, the consideration to be received in the transactions pursuant to the transaction agreements by our common stockholders, other than the Buyer, Mr. Berg or Mr. Berg s affiliates, was fair to such common stockholders from a financial point of view. The Independent Directors Committee then adjourned the meeting to attempt to resolve the open issues and finalize the draft transaction agreements and planned to reconvene to consider the proposed transactions and final agreements once this was done.

Following the meeting, the Independent Directors Committee negotiated with Mr. Berg on the final open issues in connection with the Recapitalization Agreements. The Independent Directors Committee also discussed with Mr. Berg his opinion on the proposed Asset Sale. After further negotiations and discussions among Pillsbury, Stifel Nicolaus, Venable and Mr. Berg, the Independent Directors Committee held another meeting on November 1,

Table of Contents

2012, by telephone. Stifel Nicolaus and Venable discussed with Pillsbury the status of the draft transaction agreements, including the resolution of all open issues. Stifel Nicolaus then reviewed for the Independent Directors Committee Stifel Nicolaus draft written fairness opinion and certain revisions to Stifel Nicolaus earlier presentation. At the Independent Directors Committee s invitation, Mr. Berg and Mr. Marino joined the meeting for Pillsbury to review the key terms of, and any changes to, each of the proposed transaction agreements. Mr. Berg, Mr. Marino, Pillsbury and Stifel Nicolaus then left the meeting, after which Venable reviewed with the Independent Directors Committee the protective provisions of the transaction agreements, as well as the Buyer s termination rights under its draft Sale Agreement with us and the no-shop/window-shop provisions. After further discussion among the Independent Directors Committee and Venable regarding the price and other terms of the transaction agreements, the Independent Directors Committee invited Stifel Nicolaus to rejoin the meeting, at which time Stifel Nicolaus delivered its oral opinion, to be subsequently confirmed in writing, that, subject to the assumptions and limitations contained in the written opinion, as of the date of the meeting, the consideration to be received in the proposed transactions pursuant to the transaction agreements by our common stockholders, other than the Buyer, Mr. Berg or Mr. Berg s affiliates, was fair to such common stockholders from a financial point of view. Stifel Nicolaus also indicated that, based solely on its review of the Property Appraisals from Colliers, it believed that it would be appropriate for the Independent Directors Committee to conclude that the value being attributed to the Retained Properties as set forth in the Partnership Separation Agreement is reasonable from the perspective of the holders of our shares of common stock other than the Affiliated Stockholders. The full text of the opinion of Stifel Nicolaus, dated as of November 1, 2012, which sets forth, among other things, the assumptions made, procedures followed, matters considered and limitations and qualifications of the review undertaken by Stifel Nicolaus in rendering its opinion, is attached as Annex A to this Proxy Statement. Upon further review and after further discussion, the Independent Directors Committee then unanimously determined (i) that the proposed transactions were the best strategic alternative reasonably available to us and were in our best interests, (ii) that the proposed transaction agreements and the transactions contemplated thereby represented the best value and other terms reasonably available to our stockholders, and (iii) to recommend to the Board that the Board approve the proposed transactions on the terms set forth in the transaction agreements and to recommend to our stockholders approval of the proposed transactions.

On November 1, 2012, the Board held a special meeting to consider and vote to approve the proposed Sale Agreement and Recapitalization Agreements that had been provided to the Board in advance of the meeting. The Board discussed with its advisors the Independent Directors Committee s recommendation to approve the Asset Sale, the Sale Agreement, and the Recapitalization Agreements. Based on the recommendation of the Independent Directors Committee, the Board unanimously (i) approved the OP Recapitalization, the Recapitalization Agreements, the Asset Sale and the Sale Agreement, (ii) determined the OP Recapitalization and the Asset Sale to be advisable and fair to and in the best interests of our Unaffiliated Stockholders, (iii) determined to submit the Recapitalization, as provided in the Recapitalization Agreements and the Asset Sale, as provided in the Sale Agreement, to our stockholders, and (iv) recommended that our stockholders approve the OP Recapitalization, and the Asset Sale.

Following the adjournment of the meeting of the Board on November 1, 2012, we engaged in final discussions with the Buyer and the parties signed the Sale Agreement and the Recapitalization Agreements on November 2, 2012, after the closing of the NASDAQ Stock Market. Shortly thereafter, we issued a news release announcing the signing of the Sale Agreement and the Recapitalization Agreements and filed a current report on Form 8-K dated November 2, 2012.

On November 12, 2012, the Independent Directors Committee unanimously (i) approved the Liquidation and (ii) determined the Liquidation to be advisable and fair to and in the best interests of our Unaffiliated Stockholders. The Independent Directors Committee recommended that the Board approve the Liquidation.

On November 12, 2012, based on the recommendation of the Independent Directors Committee, the Board unanimously (i) approved the Liquidation, (ii) determined the Liquidation to be advisable and fair to and in the best interests of our Unaffiliated Stockholders, (iii) determined to submit the Liquidation to our stockholders, and (iv) recommended that our stockholders approve the Liquidation.

Table of Contents

For a discussion of the material factors considered by the Independent Directors Committee and by the Board see Reasons for the OP Recapitalization, the Asset Sale and the Liquidation and Factors Considered by the Independent Directors Committee in Determining Fairness below and Reasons for the OP Recapitalization, the Asset Sale and the Liquidation and Factors Considered by the Board in Determining Fairness below.

Reasons for the OP Recapitalization, the Asset Sale and the Liquidation and Factors Considered by the Independent Directors Committee in Determining Fairness

At a meeting held on November 1, 2012, the Independent Directors Committee unanimously approved and declared advisable and in the best interests of our company and of our stockholders the OP Recapitalization and Asset Sale, on substantially the terms and conditions set forth in the Recapitalization Agreements and the Sale Agreement, and recommended to the Board that it approve the OP Recapitalization, and the Asset Sale. At a meeting held on November 12, 2012, the Independent Directors Committee unanimously approved and declared advisable and in the best interests of our company and of our stockholders the Liquidation (together with the OP Recapitalization and Asset Sale, the Transactions) on substantially the terms and conditions set forth in the plan of liquidation, and recommended to the Board that it approve the Liquidation.

In evaluating the Transactions and the other transactions contemplated by the Recapitalization Agreements and the Sale Agreement, the Independent Directors Committee consulted with our senior management, as well as our outside legal counsel and the Independent Directors Committee s separate legal counsel and financial advisor, and considered a number of factors, including the following:

- the Independent Directors Committee s understanding of our business, operations, financial condition, earnings and prospects, including our prospects as an independent entity, and management s and the Independent Directors Committee s views and opinions on the current state of the REIT industry;

- the Independent Directors Committee s belief based on its review, with the assistance of its own advisors and our management and our advisors, that the Transactions are more favorable to our stockholders than other potential strategic alternatives available to us, including continuing to operate as an independent company;

- as described above Background of the Transactions beginning on page 15, the solicitation process undertaken by our company;

- the Independent Directors Committee s belief that, in light of the solicitation process conducted at the direction of and in consultation with the Board and the Independent Directors Committee s knowledge of other participants in the REIT industry, another party would be unlikely to propose an alternative transaction that would be more favorable to us and our stockholders than the Transactions, and the fact that, if such alternative transaction was proposed, it could be pursued subject to the terms of the Sale Agreement as described below;

- Stifel Nicolaus opinion and financial presentation, dated November 1, 2012, to the Independent Directors Committee as to the fairness, from a financial point of view and as of the date of the opinion, of the proposed per share consideration to be received by holders of our common stock, other than Affiliated Stockholders, as more fully described below under The Transactions Stifel, Nicolaus & Company, Incorporated, Financial Advisor to the Independent Directors Committee ;

- Stifel Nicolaus belief that, based solely on a review of the Property Appraisals by Colliers with respect to the properties not being purchased by the Buyer (the Retained Properties) and certain other of our properties, it would be appropriate for the Independent Directors Committee to conclude that the value being attributed to the Retained Properties as part of the OP Recapitalization as set forth in the Separation Agreement is reasonable from the perspective of the Unaffiliated Stockholders, as more fully described below under The Transactions Stifel, Nicolaus & Company, Incorporated, Financial Advisor to the Independent Directors Committee ;

Table of Contents

the Independent Directors Committee considered the fact that the Transactions were the product of active negotiations between Mr. Berg and the Buyer and the Independent Directors Committee, which resulted in an 18.5% increase in the consideration for the Target Properties from the Buyer s initial offer;

the current and historical market prices of shares of our common stock, and the fact that a liquidating distribution of $9.20 per share of our common stock represented a premium of approximately 21.0% over our company s three-month average closing share price and a premium of approximately 19.6% over our company s ten-day average closing stock price prior to December 20, 2011, the day before we announced that our company was exploring strategic alternatives;

the likelihood that the Asset Sale would be completed based on, among other things (not in any relative order of importance):

- the reputation of the Buyer and its financial sponsors (TPG and Divco), its familiarity with our industry and its demonstrated ability to complete similar transactions; and
- the Independent Directors Committee s assessment of the Buyer s resources and access to capital to fund the consideration contemplated by the Sale Agreement;

the terms and conditions of the Recapitalization Agreements and the Sale Agreement, which were reviewed by the Independent Directors Committee with its outside financial and legal advisors, and the fact that such terms were the product of arm s-length negotiations between the parties;

the Board s ability, under certain circumstances, to (1) withhold, withdraw, qualify or modify its recommendation or (2) cause us to terminate the Sale Agreement in order to enter into an agreement providing for a superior proposal, subject in each case to the payment by us of a termination fee of $14 million to the Buyer, which the Independent Directors Committee concluded was reasonable in the context of termination fees in comparable transactions and in light of the overall terms of the Sale Agreement, including the per share consideration;

that no other bidder proposed a cash price in a final bid with the proposed structure that was as high as the consideration offered collectively by the Buyer and the Berg Group in the Transactions;

the fact that the consideration to be received by the holders of shares of our common stock in the Liquidation will provide our common stockholders with immediate liquidity and value that is not subject to market fluctuations;

the high cost, relative to the size of our company, of maintaining public company status, as well as the substantial amounts of time and attention from members of our senior management necessary to ensure compliance; and

our company s future prospects, including market conditions, the future performance of our company s assets and the potential risks to successful execution of our business strategy.

The Independent Directors Committee also considered a variety of potentially negative factors in its deliberations concerning the OP Recapitalization, the Recapitalization Agreements, the Asset Sale and the Sale Agreement, including the following (not in any relative order of importance):

the OP Recapitalization and the Asset Sale would preclude our stockholders from having the opportunity to participate in the future performance of our assets, our future earnings growth, if any, and future appreciation of the value of our common stock, if any;

the fact that the cash distribution would be taxable to our stockholders that are U.S. holders for U.S. federal income tax purposes and may be taxable to our foreign stockholders;

the significant costs involved in connection with entering into and consummating the Transactions and the substantial time and effort of our management required to complete the Transactions and related disruptions to the operation of our business;

Table of Contents

if the Transactions are not consummated, our company would have incurred significant expenses and employees would have expended extensive efforts to complete the Transactions, and, as a result, our company might experience adverse effects on our operating results, ability to attract or retain employees and our general competitive position;

the fact that we would be prohibited from affirmatively soliciting acquisition proposals for our company after execution of the Sale Agreement;

the fact that Mr. Berg and the Berg Group in the OP Recapitalization have interests in the Asset Sale that are different from, or in addition to, the interests of our stockholders. See The Transactions Interests of our Directors and Executive Officers in the Transactions beginning on page 45;

the fact that the Buyer can terminate the Sale Agreement for any reason at any time until the Benchmark Date as defined below;

the possibility that the termination fee of $14 million or expense reimbursement of up to $2.5 million payable by us upon termination of the Sale Agreement under certain circumstances could discourage other potential acquirers from making a competing bid to acquire us;

the fact that, while we expect that the Asset Sale will be consummated, there can be no assurance that all conditions to the parties obligations to complete the Asset Sale set forth in the Sale Agreement will be satisfied;

the timing risks inherent in the Transactions such that the failure to close the Asset Sale following completion of the OP Recapitalization could result in a loss of our REIT status and adverse tax consequences to our stockholders and to us;

the fact that, if the Liquidation does not occur in 2012, the liquidating distribution may be taxed at a higher rate; and

the other risks described under Risk Factors and Cautionary Statement Concerning Forward-Looking Information beginning on page 97.

The foregoing discussion of the information and factors considered by the Independent Directors Committee is not intended to be exhaustive, but includes the significant factors considered by the Independent Directors Committee in evaluating the Transactions. In view of the variety of factors considered in connection with its evaluation of the Transactions, the Independent Directors Committee did not find it practicable to, and did not, quantify or otherwise assign relative weights to the specific factors considered in reaching its determination and recommendation. In addition, individual members of the Independent Directors Committee may have given different weights to different factors. The Independent Directors Committee did not undertake to make any specific determination as to whether any factor, or any particular aspect of any factor, supported or did not support its ultimate determination. The Independent Directors Committee based its recommendation to the Board on the totality of the information presented.

Reasons for the OP Recapitalization, the Asset Sale and the Liquidation and Factors Considered by the Board in Determining Fairness

At a meeting held on November 1, 2012, the Board unanimously approved and declared advisable and in the best interests of our company and of our stockholders the OP Recapitalization and the Asset Sale, on substantially the terms and conditions set forth in the Recapitalization Agreements and the Sale Agreement, directed that the Asset Sale and the OP Recapitalization be submitted to our stockholders for approval, and recommended that stockholders vote in favor of the approval of the OP Recapitalization and the Asset Sale on substantially the terms and conditions set forth in the Recapitalization Agreements and the Sale Agreement. At a meeting held on November 12, 2012, the Board unanimously approved and declared advisable and in the best

33

Table of Contents

interests of our company and of our stockholders the Liquidation on substantially the terms and conditions set forth in the plan of liquidation, and directed that the Liquidation to be submitted to our stockholders for approval, and recommended that stockholders vote in favor of the approval of the Liquidation.

In evaluating the Transactions and the other transactions contemplated by the Recapitalization Agreements and the Sale Agreement, the Board considered the recommendation of the Independent Directors Committee, consulted with our senior management, as well as our outside legal counsel and considered a number of factors, including the following:

the Board s understanding of our business, operations, financial condition, earnings and prospects, including our prospects as an independent entity, and management s and the Board s views and opinions on the current state of the REIT industry;

the Board s belief based on its review, with the assistance of management and our advisors, that the Transactions are more favorable to our stockholders than other potential strategic alternatives available to us, including continuing to operate as an independent company;

Management s efforts to find a buyer for our company, including:

the fact that, in late 2011, our management began an extensive marketing effort with respect to our real estate portfolio, including an open bidding process where more than 100 REITs, operating partnerships, investment funds and insurance companies were invited to indicate their interest in our company;

as a result of those solicitations of interest, we sent bid packages to more than 50 prospective bidders, received six bids and decided to explore the financial strength and ability to close a transaction with four of the bidders;

the fact that at least two of the four final bidders preferred to purchase a portion of our properties, as opposed to our entire portfolio, because they determined that certain of the properties were too expensive for the bidders to obtain the necessary return on their investment; and

the fact that one of the final bidders lost its financial backing and withdrew from the bidding process;

the fact that Mr. Berg and the Berg Group were willing to purchase the properties that were not wanted by certain of the bidders for a price that exceeded the appraised value of the Retained Properties;

the Board s belief that, in light of the solicitation process conducted at the direction of and in consultation with the Board and its and the Independent Directors Committee s knowledge of other participants in the REIT industry, another party would be unlikely to propose an alternative transaction that would be more favorable to us and our stockholders than the Transactions, and the fact that, if such alternative transaction was proposed, it could be pursued subject to the terms of the Sale Agreement as described below;

the receipt by the Independent Directors Committee of Stifel Nicolaus opinion and financial presentation, dated November 1, 2012, as to the fairness, from a financial point of view and as of the date of the opinion, of the proposed per share consideration to be received by the Unaffiliated Stockholders, as more fully described below under The Transactions Stifel, Nicolaus & Company, Incorporated, Financial Advisor to the Independent Directors Committee ;

Stifel Nicolaus belief that, based solely on a review of the Property Appraisals it would be appropriate for the Independent Directors Committee to conclude that the value being attributed to the Retained Properties as part of the OP Recapitalization as set forth in the Separation Agreement is reasonable from the perspective of the Unaffiliated Stockholders, as more fully described below under The Transactions Stifel, Nicolaus & Company, Incorporated, Financial Advisor to the Independent Directors Committee ;

The review by the Independent Directors Committee of the Property Appraisals;

Table of Contents

the Independent Directors Committee s unanimous approval of the Transactions and their determination that the Transactions are advisable, fair to and in the best interests of our company and our stockholders, and their recommendation to the Board that the Board approve the Transactions;

the likelihood that the Asset Sale would be completed based on, among other things (not in any relative order of importance):

- the reputation of the Buyer and its financial sponsors, its familiarity with our industry and its demonstrated ability to complete similar transactions; and
- the Board s assessment of the Buyer s resources and access to capital to fund the consideration contemplated by the Sale Agreement;

the Board s ability, under certain circumstances, to (1) withhold, withdraw, qualify or modify its recommendation or (2) cause us to terminate the Sale Agreement in order to enter into an agreement providing for a superior proposal, subject in each case to the payment by us of a termination fee of $14 million to the Buyer, which the Independent Directors Committee concluded was reasonable in the context of termination fees in comparable transactions and in light of the overall terms of the Sale Agreement, including the per share consideration;

that no other bidder proposed a cash price in a final bid with the proposed structure that was as high as the consideration offered by the Buyer;

the Board s understanding of economic conditions in Silicon Valley, including:

- a slow recovery in the real estate market for assets similar to ours that contributed to increased market volatility and diminished expectations for the Silicon Valley economy and the real estate market, in particular;
- lower demand for manufacturing and R&D properties similar to ours by companies in Silicon Valley;
- an opportunity to take advantage of the low interest rate environment which has increased capitalization rates and the value of income producing real estate;
- an opportunity for an adequately capitalized buyer to take advantage of improving market conditions to increase the occupancy of our vacant properties; and

the fact that the Transactions are subject to approval by our stockholders, including, with respect to the OP Recapitalization, approval by a majority vote of the Unaffiliated Stockholders.

The Board also considered a variety of potentially negative factors in its deliberations concerning the OP Recapitalization, the Recapitalization Agreements, the Asset Sale and the Sale Agreement, including the following (not in any relative order of importance):

the OP Recapitalization and the Asset Sale would preclude our stockholders from having the opportunity to participate in the future performance of our assets, our future earnings growth, if any, and future appreciation of the value of our common stock, if any;

the fact that any gain on the cash distribution would be taxable to our stockholders that are U.S. holders for U.S. federal income tax purposes and may be taxable to our foreign stockholders;

the significant costs involved in connection with entering into and consummating the Transactions and the substantial time and effort of our management required to complete the Transactions and related disruptions to the operation of our business;

the fact that the Buyer can terminate the Sale Agreement for any reason at any time until one business day prior to the date of the Special Meeting;

the fact that we would be prohibited from affirmatively soliciting acquisition proposals for our company after execution of the Sale Agreement;

Table of Contents

the possibility that the termination fee of $14 million or expense reimbursement of up to $2.5 million payable by us upon termination of the Sale Agreement under certain circumstances could discourage other potential acquirers from making a competing bid to acquire us;

the fact that Mr. Berg and the Berg Group in the OP Recapitalization have interests in the Asset Sale that are different from, or in addition to, the interests of our stockholders. See The Transactions Interests of our Directors and Executive Officers in the Transactions beginning on page 45;

the fact that, while we expect that the Asset Sale will be consummated, there can be no assurance that all conditions to the parties obligations to complete the Asset Sale set forth in the Sale Agreement will be satisfied;

the timing risks inherent in the structure of the Transactions such that the failure to close the Asset Sale following completion of the OP Recapitalization could result in a loss of our REIT status and adverse tax consequences to our stockholders and to us;

the fact that, if the Liquidation does not occur in 2012, any gain recognized by a stockholder in connection with the liquidating distribution may be taxed at a higher rate; and

the other risks described under Risk Factors and Cautionary Statement Concerning Forward-Looking Information beginning on page 97.

The foregoing discussion of the information and factors considered by the Board is not intended to be exhaustive, but includes the significant factors considered by the Board in evaluating the Transactions. In view of the variety of factors considered in connection with its evaluation of the Transactions, the Board did not find it practicable to, and did not, quantify or otherwise assign relative weights to the specific factors considered in reaching its determination and recommendation. In addition, individual directors may have given different weights to different factors. The Board did not undertake to make any specific determination as to whether any factor, or any particular aspect of any factor, supported or did not support its ultimate determination. The Board based its recommendation on the totality of the information presented.

Recommendation of the Independent Directors Committee

The Independent Directors Committee unanimously approved the OP Recapitalization, the Asset Sale and the Liquidation, and determined the OP Recapitalization, the Asset Sale and the Liquidation to be advisable and fair to and in the best interests of our company and our stockholders. The Independent Directors Committee unanimously recommended that the Board approve and declare advisable the OP Recapitalization, the Asset Sale and the Liquidation. The Independent Directors Committee considered a number of factors, as more fully described above under Reasons for the OP Recapitalization, the Asset Sale and the Liquidation and Factors Considered by the Independent Directors Committee in Determining Fairness, in determining to recommend that the Board approve the OP Recapitalization, the Asset Sale and the Liquidation.

Recommendation of our Board of Directors

Our Board of Directors (our Board), acting upon the recommendation of the Independent Directors Committee, has unanimously approved the OP Recapitalization, the Recapitalization Agreements, the Asset Sale, the Sale Agreement and the Liquidation, and determined the OP Recapitalization, the Asset Sale and the Liquidation to be advisable and fair to and in the best interests of our Unaffiliated Stockholders. Our Board considered a number of factors, as more fully described under Reasons for the OP Recapitalization, the Asset Sale and the Liquidation and Factors Considered by the Board in Determining Fairness, in determining to submit the OP Recapitalization, the Asset Sale and the Liquidation to our stockholders and recommend that our stockholders approve the OP Recapitalization, the Asset Sale and the Liquidation. **The Board unanimously recommends that you vote FOR the approval of the OP Recapitalization, the Asset Sale and the Liquidation.**

Table of Contents

Opinion of Stifel, Nicolaus & Company, Incorporated, Financial Advisor to the Independent Directors Committee

The Independent Directors Committee retained Stifel Nicolaus on June 6, 2012 to provide a fairness opinion and related services in connection with the Transactions contemplated by the Recapitalization Agreements and the Sale Agreement. The Independent Directors Committee selected Stifel Nicolaus based on Stifel Nicolaus excellent reputation, knowledge of Silicon Valley real estate, experience in providing fairness opinions, Mr. Roher s recommendation based on his interaction with representatives of Stifel Nicolaus and Stifel Nicolaus competitive fee structure. On November 1, 2012, Stifel Nicolaus delivered its written opinion, dated November 1, 2012, to the Independent Directors Committee that, as of the date of the opinion and subject to and based on the assumptions made, procedures followed, matters considered and limitations of the review undertaken in such opinion, the consideration to be received in the Transactions pursuant to the Recapitalization Agreements and the Sale Agreement by holders of issued and outstanding shares of our common stock who are not Affiliated Stockholders was fair to such holders, from a financial point of view.

The full text of the written opinion of Stifel Nicolaus is attached as Annex A to this Proxy Statement and is incorporated into this document by reference. The summary of Stifel Nicolaus fairness opinion set forth in this Proxy Statement is qualified in its entirety by reference to the full text of the opinion. Stockholders are urged to read the opinion carefully and in its entirety for a discussion of the procedures followed, assumptions made, other matters considered and limits of the review undertaken by Stifel Nicolaus in connection with such opinion.

The opinion of Stifel Nicolaus is directed to the Independent Directors Committee in connection with its consideration of the financial terms of the Transactions. Stifel Nicolaus opinion did not constitute a recommendation to the Independent Directors Committee, the Board or any stockholder as to how the Independent Directors Committee, the Board or such stockholder should vote on the Transactions or to any stockholder as to how any such stockholder should vote at any stockholders meeting at which the Transactions are considered or whether or not any stockholder should exercise any dissenters or appraisal rights that may be available to such stockholder. Stifel Nicolaus opinion does not compare the relative merits of the Transactions with any other alternative transaction or business strategy which may have been available to us and does not address the underlying business decision of the Independent Directors Committee, the Board or us to proceed with the Transactions or any aspect thereof. Stifel Nicolaus was not engaged to assist in, and was not involved in, the sales process, our decision to pursue certain strategic alternatives, or our consideration of transactions other than the Transactions pursuant to the sales process.

Stifel Nicolaus opinion is limited to whether the consideration to be received by the holders of the Shares who are not Affiliated Stockholders is fair from a financial point of view. At the direction of the Independent Directors Committee, Stifel Nicolaus did not pass upon the fairness of the consideration to be paid to the Affiliated Stockholders or holders of LP Units. Stifel Nicolaus noted in its opinion that we engaged in a process earlier in 2012 which resulted in the selection of Divco and TPG as the principal purchaser of our assets, and that process included a stated assumption that certain of the Retained Properties, which, in addition to certain other properties, constitute the Retained Properties, would be purchased or retained by the Berg Group at a valuation in excess of the ultimate price being paid by the Berg Group. That process was not reopened after the purchase price initially indicated to be offered by the Berg Group for certain of the Retained Properties was reduced. Further, Stifel Nicolaus opinion noted that Mr. Berg and certain affiliated parties and entities have certain approval rights with respect to fundamental corporate actions, including any merger, consolidation or sale of all or substantially all of our assets. In addition, Stifel Nicolaus opinion does not consider, address or include: (1) the legal, tax or accounting consequences of the Transactions on Mission West, the Berg Group or the holders of our common stock, including the continuation of statutory REIT qualification requirements; (2) the fairness of the amount or nature of any compensation to any of our officers, directors or employees, or class of such persons, relative to the compensation to the holders of our securities; (3) the fairness of the consideration to be paid to affiliates of the Berg Group or the holders of LP Units; (4) the independent fairness of the component parts of the

Table of Contents

Transactions, including, without limitation, the fairness of the Transactions to the Berg Group or fairness of the OP Recapitalization; (5) the risks and attendant costs to us of the Transactions; (6) the risks and attendant impact of a delay in the Liquidation or a need to defer payments to stockholders in connection with the Liquidation; or (7) any advice or opinions provided by any other advisor to us other than Colliers. Furthermore, Stifel Nicolaus did not express any opinion as to the prices, trading range or volume at which our securities will trade following public announcement or consummation of the Transactions.

In connection with its opinion, Stifel Nicolaus, among other things:

- discussed the Transactions and related matters with the Independent Directors Committee and its counsel and our counsel and reviewed draft copies of the Recapitalization Agreements and the Sale Agreement;
- reviewed our audited consolidated financial statements contained in our Annual Report on Form 10-K for the year ended December 31, 2011 and our unaudited consolidated financial statements contained in our Quarterly Report on Form 10-Q for the quarter ended June 30, 2012 and draft Quarterly Report on Form 10-Q for the quarter ended September 30, 2012;
- reviewed and discussed with our management certain other information concerning us, our Operating Partnerships and properties;
- reviewed certain non-publicly available information concerning our company, including internal financial analyses and forecasts prepared by our management, including but not limited to Argus models provided by us and revised to incorporate updated assumptions provided by our management, asset sale forecasts and pro forma balance sheets, and held discussions with our management regarding recent developments;
- reviewed and analyzed certain publicly available information concerning the terms of selected merger and acquisition transactions that were considered relevant to its analysis;
- reviewed and analyzed certain publicly available financial and stock market data relating to selected public companies that were considered relevant to its analysis;
- reviewed the reported prices and trading activity of our equity securities;
- reviewed the Property Appraisals;
- conducted such other financial studies, analyses and investigations and considered such other information that it deemed necessary or appropriate for purposes of its opinion; and
- took into account its assessment of general economic, market and financial conditions and its experience in other transactions, as well as its experience in securities valuation and knowledge of our industry generally.

In connection with rendering its opinion, Stifel Nicolaus relied upon and assumed, without independent verification, the accuracy and completeness of all of the financial and other information that was provided to Stifel Nicolaus by or on behalf of the Independent Directors Committee or us, including, but not limited to, the Property Appraisals. Stifel Nicolaus has not assumed any responsibility for independently verifying any of such information or any other information that it reviewed.

With respect to the financial forecasts and projections we supplied to Stifel Nicolaus, including projections in the form of property level operating forecasts and projections relating to the Liquidation and the net cash amount per share available for distribution to our stockholders, Stifel Nicolaus assumed that the forecasts and projections were reasonably prepared on the basis reflecting the best currently available estimates and judgments of our management, and that they provided a reasonable basis upon which Stifel Nicolaus could form its opinion. All such projected financial information is based on numerous variables and assumptions that are inherently uncertain, including, without limitation, factors related to general economic, market and competitive conditions. Accordingly, actual results could vary significantly from those set

Table of Contents

forth in such projected financial information. Stifel Nicolaus relied on this projected information without independent verification or analyses and does not in any respect assume any responsibility for the accuracy or completeness thereof. Stifel Nicolaus has further relied upon the assurances by our management that our management is unaware of any facts that would make any of the information provided to Stifel Nicolaus incomplete or misleading. Stifel Nicolaus did not make any independent evaluation, appraisal or physical inspection of our assets or liabilities, the collateral securing any liabilities, or the collectability of amounts due to us.

Stifel Nicolaus opinion is necessarily based solely on economic, market, monetary, financial and other conditions as they exist on, and on the information made available to Stifel Nicolaus as of, the date of its opinion. It is understood that subsequent developments may affect the conclusions reached in, or information set forth in, its opinion, and that Stifel Nicolaus does not have any obligation to update, revise or reaffirm its opinion. Stifel Nicolaus assumed that the Transactions will be consummated substantially on the terms and conditions described in the Recapitalization Agreements and the Sale Agreement, without any waiver of material terms or conditions by us or any other party and without any dilution or other adjustment to the consideration, and that obtaining any necessary regulatory approvals or satisfying any other conditions for consummation of the Transactions will not have an adverse effect on us or the Transactions. In addition, Stifel Nicolaus has assumed that the definitive Recapitalization Agreements and the Sale Agreement would not differ materially from the drafts it reviewed.

The summary set forth below does not purport to be a complete description of the analyses performed by Stifel Nicolaus, but describes, in summary form, the material elements of the presentation that Stifel Nicolaus made to the Independent Directors Committee on November 1, 2012, in connection with Stifel Nicolaus fairness opinion.

In accordance with customary investment banking practice, Stifel Nicolaus employed generally accepted valuation methods and financial analyses in reaching its opinion. The following is a summary of the material financial analyses performed by Stifel Nicolaus in arriving at its opinion. These summaries of financial analyses alone do not constitute a complete description of the financial analyses Stifel Nicolaus employed in reaching its conclusions. Some of the summaries of the financial analyses include information presented in tabular format. In order to understand the financial analyses used by Stifel Nicolaus more fully, you should read the tables together with the text of each summary. The tables alone do not constitute a complete description of Stifel Nicolaus financial analyses, including the methodologies and assumptions underlying the analyses, and if viewed in isolation could create a misleading or incomplete view of the financial analyses performed by Stifel Nicolaus. The summary data set forth below do not represent and should not be viewed by anyone as constituting conclusions reached by Stifel Nicolaus with respect to any of the analyses performed by it in connection with its opinion. Rather, Stifel Nicolaus made its determination as to the fairness to holders of shares of our common stock who are not Affiliated Stockholders of the consideration to be received by such holders, from a financial point of view, on the basis of its experience and professional judgment after considering the results of all of the analyses performed. Accordingly, the data included in the summary tables and the corresponding imputed ranges of value for shares of our common stock should be considered as a whole and in the context of the full narrative description of all of the financial analyses set forth in the following pages, including the assumptions underlying these analyses. Considering the data included in the summary table without considering the full narrative description of all of the financial analyses, including the assumptions underlying these analyses, could create a misleading or incomplete view of the financial analyses performed by Stifel Nicolaus.

Except as otherwise noted, the following quantitative information, to the extent that it is based on market data, is based on market data as it existed on or before November 1, 2012 and is not necessarily indicative of current market conditions. The analyses described below do not purport to be indicative of actual future results, or to reflect the prices at which any securities may trade in the public markets, which may vary depending upon various factors, including changes in interest rates, dividend rates, market conditions, economic conditions and other factors that influence the price of securities.

No company or transaction used in any analysis as a comparison is identical to us or the Transactions, and they all differ in material ways. Stifel Nicolaus selected comparable publicly traded companies and publicly

Table of Contents

announced transactions on the basis of various factors, including the size of the public companies and the similarity of the lines of business to Mission West. Accordingly, an analysis of the results described below is not mathematical; rather it involves complex considerations and judgments concerning differences in financial and operating characteristics of the companies and other factors that could affect the public trading value of the comparable companies or transactions to which they are being compared. In addition, because the market conditions, rationale and circumstances surrounding each of the transactions analyzed were specific to each transaction and because of the inherent differences between our business, operations and prospects and those of the comparable companies analyzed, Stifel Nicolaus believed that it was inappropriate to, and therefore did not, rely solely on the quantitative results of the analyses. Accordingly, Stifel Nicolaus also made qualitative judgments concerning the differences between the characteristics of these transactions (including market conditions, rationale and circumstances surrounding each of the transactions, and the timing, type and size of each of the transactions) and the Transactions that could affect the acquisition value of our company.

In conducting its analysis, Stifel Nicolaus used several methodologies to determine the approximate valuations of our company. These analyses were developed and applied collectively. Consequently, each individual methodology was not given a specific weight, nor can any methodology be viewed individually. Stifel Nicolaus used these analyses to determine the impact of various operating metrics on the implied equity value of our company. Each of these analyses yielded a range of implied equity values, and therefore, such implied equity value ranges developed from these analyses must be viewed collectively and not individually. Unless noted otherwise, all analyses are based on our management s minimum estimated liquidation value for the consideration, or $9.20 per share.

Summary of Stifel Nicolaus s Financial Analyses

Net Asset Value Analysis

Using balance sheet estimates as of October 31, 2012 and forward 12-month net operating income projections beginning November 1, 2012, as provided by our management, Stifel Nicolaus calculated a net asset value per share. For this analysis, Stifel Nicolaus classified our properties into three categories: stabilized, lease-up and vacant. Stabilized properties were those greater than 90% leased at the time of analysis and not subject to lease expiration which would bring occupancy levels below 90% during the 12-month forecast period. These properties were valued by applying a capitalization rate, on a property-by-property basis, to the forward 12-month net operating income as projected by our management. The aggregate of the property-by-property valuations imply a range of capitalization rates of 6.6% to 7.2% for the stabilized property category. Lease-up properties were those functional properties with occupancy less than 90% at the time of analysis or for which the property was subject to lease expirations which would bring occupancy levels below 90% during the 12-month forecast period. Lease-up properties were valued by applying value per building square foot to the total building area. The aggregate of the property-by-property valuations imply a range of $91.04 per building square foot to $117.14 per building square foot for the lease-up property category. The developable parcels included vacant properties which were viewed to be functionally obsolete and developable land parcels. Developable parcels were valued by applying a range of values per land square foot, on a property-by-property basis, to the parcel square footage. The aggregate of the property-by-property valuations imply a range of $7.65 per land square foot to $14.25 per land square foot for the developable parcel category. The capitalization rates, values per building square foot and values per land square foot were derived from historical data for comparable sales from published sources, discussions with management, and an evaluation of market data from various market data and brokerage service companies.

The valuation ranges for the three categories were combined to provide a range of values for our real estate holdings. To determine our net asset value Stifel Nicolaus added cash and cash equivalents, notes receivable from asset sales, and investments in unconsolidated joint ventures, and subtracted the minority interest of the consolidated joint ventures, and mortgage notes and other liabilities, inclusive of management s projection of transaction costs to be incurred. The net asset value was subsequently divided by the total shares of common

Table of Contents

stock and LP Units outstanding on a fully diluted basis. This analysis indicated a net asset value range of $8.74 to $10.54 per share.

Comparable Company Multiples Analysis

Using publicly available information, Stifel Nicolaus compared our selected financial data with similar data for a select universe of publicly traded companies engaged in businesses viewed by Stifel Nicolaus to be similar to that of our company. The companies selected were

DCT Industrial Trust, Inc.

Duke Realty Corp.

EastGroup Properties Inc.

First Industrial Realty Trust

Liberty Property Trust

PS Business Parks, Inc.

These companies were selected, among other reasons, because of their asset focus, specifically in the office and R&D spaces, asset quality, market capitalization, and capital structure. None of the companies used as part of this analysis were viewed to be identical to us and as such, a complete analysis of the results of the following calculations cannot be limited to a quantitative review. The analysis involves considerations and judgments concerning the differences in the financial and operating characteristics of the companies, among other factors, that could affect the public trading value of the comparable companies and us alike.

Stifel Nicolaus analyzed publicly available financial performance data for the comparable companies listed above. Stifel Nicolaus calculated the 2012 estimated and 2013 estimated trading multiples for funds from operations by dividing the closing share prices of the comparable companies on November 1, 2012 by equity analysts consensus funds from operations (FFO) estimates for 2012 and 2013. This analysis indicated the following high, mean, median and low multiples for the comparable companies, which implied the following common share prices for our common stock when applied to our 2012 and 2013 FFO estimates, based on management s projections:

	2012 FFO Multiple	Implied Common Share Price Based on 2012 Consensus FFO	2013 FFO Multiple	Implied Common Share Price Based on 2013 Consensus FFO
High	17.0x	$ 8.79	16.4x	$ 9.14
Mean	14.9x	$ 7.69	13.9x	$ 7.76
Median	14.5x	$ 7.51	13.3x	$ 7.40
Low	13.8x	$ 7.11	12.6x	$ 7.03

Table of Contents

Historical Stock Price Analysis

Stifel Nicolaus reviewed the historical average daily closing prices of our common stock for the 10-, 30-, 60-, and 90-day periods prior to December 20, 2011, the day on which we publicly announced our intention to explore strategic alternatives. Based on this information, the total consideration represented the following premiums over various trading prices of our common stock:

Premium to Company Stock Price:	Average Stock Price	Consideration Premium
10 Prior Trading Days	$ 7.69	19.6%
30 Prior Trading Days	$ 7.62	20.7%
60 Prior Trading Days	$ 7.60	21.0%
90 Prior Trading Days	$ 7.59	21.2%

Precedent REIT Transaction Analysis

Using publicly available information, Stifel Nicolaus analyzed select announced transactions across all REIT sectors during the period from March 1, 2007 to December 31, 2011 (there were no relevant REIT sector transactions after December 31, 2011). Specifically, Stifel Nicolaus reviewed the following transactions:

Announcement Date	Acquiror	Target
12/24/2011	Ventas, Inc.	Cogdell Spencer Inc.
2/27/2011	Ventas, Inc.	Nationwide Health Properties, Inc.
3/16/2010	Tiptree Financial Partners, L.P.	Care Investment Trust Inc.
7/23/2007	Liberty Property Trust	Republic Property Trust
6/20/2007	Goldman Sachs Group, Inc.	Equity Inns, Inc.
5/22/2007	Morgan Stanley	Crescent Real Estate Equities Company
4/27/2007	AP AIMCAP Holdings LLC	Eagle Hospitality Properties Trust, Inc.
4/24/2007	J.E. Robert Company, Inc.	Highland Hospitality Corporation
4/15/2007	Apollo Investment Corporation	Innkeepers USA Trust
3/12/2007	Investor group	Spirit Finance Corporation

Stifel Nicolaus analyzed premiums paid relative to the average closing stock price for the periods 10 days, 30 days, 60 days and 90 days prior to announcement for the transactions listed above, which implied the following common share prices when applied to our respective share prices:

	Premium Paid	Implied Per Share Value
High	32.2%	$ 10.03
Mean	15.2%	$ 8.79
Low	4.9%	$ 8.07

Discounted Cash Flow Analysis

Stifel Nicolaus performed a discounted cash flow analysis for us based on projections and assumptions (inclusive of consolidated joint ventures) provided by our management for free cash flow through the period ended October 31, 2016 and net operating income through the period ended October 31, 2017. These projections and assumptions provided by our management were in the form of property level operating forecasts and projections. Stifel Nicolaus calculated a range of terminal values for us at October 31, 2016 by applying a range of capitalization rates from 7.0% to 7.75% to the forward 12-month net operating income through October 31, 2017. The projected annual cash flows and range of terminal values were then discounted to present values using a range of cost of capital discount rates from 9.5% to 11.5% reflecting a weighted average cost of capital calculation using standard valuation techniques. The sum of the present value of future cash flows combined with the terminal value was then added to cash and cash equivalents, the present value of our notes receivable from property sales, land values as concluded in the Property Appraisals, and our equity in unconsolidated joint ventures. From this

42

Table of Contents

amount, Stifel Nicolaus reduced the gross value by total debt outstanding pro forma for the period ended October 31, 2012 as provided by our management and divided this figure by the fully diluted shares and LP Units outstanding. This analysis concluded a valuation range of $8.39 per share to $10.12 per share.

Conclusion

Based upon the foregoing analyses and the assumptions and limitations set forth in full in the text of Stifel Nicolaus opinion, Stifel Nicolaus was of the opinion that, as of the date of Stifel Nicolaus opinion, the consideration to be received in the Transactions pursuant to the Recapitalization Agreements and the Sale Agreement by holders of issued and outstanding shares of our common stock who are not Affiliated Stockholders was fair to such holders, from a financial point of view.

The preparation of a fairness opinion is a complex process and is not necessarily susceptible to a partial analysis or summary description. In arriving at its opinion, Stifel Nicolaus considered the results of all of its analyses as a whole and did not attribute any particular weight to any analysis or factor considered by it. Stifel Nicolaus believes that the summary provided and the analyses described above must be considered as a whole and that selecting portions of these analyses, without considering all of them, would create an incomplete view of the process underlying Stifel Nicolaus analyses and opinion; therefore the range of valuations resulting from any particular analysis described above should not be taken to be Stifel Nicolaus view of the actual value of our company.

Stifel Nicolaus acted as financial advisor to the Independent Directors Committee and received a fee upon the delivery of its fairness opinion. Pursuant to the terms of Stifel Nicolaus engagement letter with the Independent Directors Committee, we agreed to pay Stifel Nicolaus a fee of $500,000, of which $50,000 was due upon execution of the engagement letter, $50,000 was due two weeks after the execution of the engagement letter and the balance was due upon delivery of its opinion. In certain circumstances, we also agreed to pay an additional financial advisory fee payable upon the closing of the Transactions. We have also agreed to reimburse Stifel Nicolaus for certain out-of-pocket expenses incurred by it in connection with its engagement. In addition, we have agreed to indemnify Stifel Nicolaus for certain liabilities relating to or arising out of its engagement. Our Operating Partnerships are co-obligors with respect to our payment obligations to Stifel Nicolaus. During the two years preceding the date of its opinion, no material relationships existed or were mutually understood to be contemplated in which any compensation was received or is intended to be received as a result of the relationship between Stifel Nicolaus and any party to the Transactions. Stifel Nicolaus may seek to provide investment banking services to the Buyer or its affiliates or the Berg Group in the future, for which Stifel Nicolaus would seek customary compensation. In the ordinary course of business, Stifel Nicolaus and its clients may trade our securities and, accordingly, may at any time hold a long or short position in such securities. Stifel Nicolaus internal Fairness Opinion Committee approved the issuance of its fairness opinion.

Financing of the Asset Sale

It is estimated that total funds of approximately $797 million, which is the Purchase Price under the Sale Agreement, will be needed by the Buyer to complete the Asset Sale. The Buyer is expected to finance this amount as follows:

- by assuming existing indebtedness of (1) Mission West Properties, L.P. to Allianz Life Insurance Company of North America (Allianz), in the approximate aggregate amount of $112 million and (2) Mission West Properties, L.P., Mission West Properties, L.P. I and Mission West Properties, L.P. II to Hartford Life Insurance Company, Hartford Life and Annuity Insurance Company and Hartford Life and Accident Insurance Company (collectively, Hartford), in the approximate aggregate amount of $139 million (collectively, the Debt Assumption);

- obtaining new debt financing originated by Bank of America, of which the approximate principal amount of $138 million will be advanced at the closing of the Asset Sale (the New Debt Financing, and together with the Debt Assumption, the Debt Financing); and

Table of Contents

funding the $408 million balance through equity contributions by the Buyer s equity sponsors (the Equity Financing). The Equity Financing and Debt Financing are subject to certain conditions, including conditions that do not relate directly to the Sale Agreement.

We believe the amounts (1) committed under the commitments for the Equity Financing and New Debt Financing (collectively, the Financing Commitments) and (2) that may be assumed by the Buyer pursuant to the Debt Assumption, with the consent of Allianz and Hartford, will be in the aggregate sufficient to satisfy the aggregate consideration for the Asset Sale together with related expenses, but we cannot assure you of that. Those amounts might be insufficient if, among other things, one or more of the parties to the Financing Commitments fail to fund the committed amounts in breach of such Financing Commitments, if Allianz or Hartford do not consent to the Debt Assumption, as applicable, if Buyer is unable to obtain alternative financing from alternative sources in an amount sufficient to consummate the Asset Sale or if the conditions to such Financing Commitments or Debt Assumption are not met. The Financing Commitments and Debt Assumption are subject to certain conditions, including conditions that do not relate directly to the Sale Agreement.

Prior to the closing of the Asset Sale, we have agreed to use our commercially reasonable efforts to provide to the Buyer, at the Buyer s sole expense, all cooperation reasonably requested by the Buyer that is customary in connection with the arrangement of the Equity Financing and New Debt Financing or any permitted replacement, amended, modified or alternative financing.

Equity Financing

In connection with the Sale Agreement, the Buyer s equity sponsors entered into an equity commitment letter agreement with the Buyer, pursuant to which the Buyer s equity sponsors severally committed to purchase equity securities of the Buyer at or prior to the closing of the Asset Sale in an amount necessary to fund an amount in cash equal to the Purchase Price minus the Debt Financing.

The obligation of the Buyer s equity sponsors to fund the Equity Commitment is subject to (1) the satisfaction or waiver of all the conditions to the Buyer s obligations to effectuate the closing of the Asset Sale, (2) the New Debt Financing being funded concurrently in accordance with the terms thereof and (3) the contemporaneous consummation of the closing of the Asset Sale.

The obligation of the Buyer s equity sponsors to fund the Equity Commitment will terminate automatically and immediately upon the earliest to occur of (a) the valid termination of the Sale Agreement in accordance with its terms, (b) the closing of the Asset Sale, at which time the obligation will be fulfilled, and (c) the Operating Partnerships or any of their affiliates, directly or indirectly, asserting a claim against the Buyer in connection with the Sale Agreement or any of the transactions contemplated thereby.

Debt Financing

New Debt Financing

In connection with the Sale Agreement, TPG Capital, L.P. (TPG) and Divco West Acquisitions, LLC (Divco), on behalf of the Buyer, entered into a debt commitment letter with Bank of America (the Debt Commitment Letter), pursuant to which Bank of America committed to make a senior secured term loan to one or more direct or indirect subsidiaries of a newly created joint venture sponsored by one or more entities affiliated with, advised by or managed by each of TPG and Divco, in an amount of up to approximately $156 million, a portion of which in the approximate aggregate amount of $138 million will be advanced at the closing of the Asset Sale. The New Debt Financing is subject to a due diligence or a market out provision, which allows Bank of America not to fund its commitment if it is not satisfied with its due diligence findings

Table of Contents

with respect to the proposed assets that will form part of its collateral or if certain conditions in the financial markets prevail. As of the date hereof, no alternative financing arrangements or alternative financing plans have been made in the event the New Debt Financing is not available as anticipated.

The provision of the New Debt Financing pursuant to the Debt Commitment Letter is subject to certain customary closing conditions, including, but not limited to:

- completion of all due diligence with respect to Buyer and property that will secure the loan;
- receipt of customary property related deliverables;
- the execution and delivery of definitive documentation with respect to the applicable debt facility consistent with the Debt Commitment Letter; and
- the absence of a material adverse change in the loan syndication market or a material adverse change in the financial markets which might have a material adverse effect on the loan syndication market.

The final termination date of the Debt Commitment Letter is the earliest of (1) December 31, 2012 (Expiration Date), and (2) the date on which the Debt Commitment Letter is validly terminated in accordance with its terms which includes, without limitation, for breach of the Debt Commitment Letter by TPG and Divco or termination of the Sale Agreement; provided, however, if the closing date set forth in the Sale Agreement is extended, Bank of America has agreed to simultaneously extend the Expiration Date for up to 90 days to such extended closing date.

Debt Assumption

In connection with the Sale Agreement, it is proposed that the Buyer assume the existing indebtedness of Mission West Properties, L.P., Mission West Properties, L.P. I and Mission West Properties, L.P. II to Allianz and Hartford, as applicable. The Buyer has agreed to use commercially reasonable efforts to (1) procure the consent of Allianz and Hartford to the Debt Assumption, and (2) take, or cause to be taken, all actions, and do, or cause to be done, all things necessary to consummate the Debt Assumption. As of the date hereof, no alternative financing arrangements or alternative financing plans have been made in the event the Debt Assumption is not consummated as anticipated.

The consummation of the Debt Assumption is subject to certain customary closing conditions, including, but not limited to:

- the delivery of customary information regarding the Buyer and its subsidiaries;
- receipt of customary property related deliverables;
- Allianz and Hartford being paid for certain fees and expenses;
- the replacement of the existing guarantor/indemnitor with an entity which is reasonably acceptable to the applicable lenders and unless such entity is the Buyer, acceptable to the Buyer in its sole discretion;
- the execution and delivery of definitive documentation with respect to the Debt Assumption; and

all required payments with respect to the loans being made current.

Interests of our Directors and Executive Officers in the Transactions

Mr. Carl E. Berg, our Chief Executive Officer, is directly and indirectly a Limited Partner. Mr. Clyde J. Berg, Mr. Berg s brother, and Ms. Kara Ann Berg, Mr. Berg s daughter, are also Limited Partners, either directly or indirectly. As of October 31, 2012, the Berg Group collectively beneficially owns 75,769,68