

Cogdell Spencer Inc.  
Form 10-K  
March 30, 2012  
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# UNITED STATES SECURITIES AND EXCHANGE COMMISSION

Washington, DC 20549

## FORM 10-K

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

For the fiscal year ended December 31, 2011

or

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

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission file number 001-32649

## COGDELL SPENCER INC.

(Exact name of registrant as specified in our charter)

Maryland  
(State or other jurisdiction of  
incorporation or organization)

20-3126457  
(I.R.S. Employer  
Identification No.)

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4401 Barclay Downs Drive, Suite 300

Charlotte, North Carolina  
(Address of principal executive offices)

(704) 940-2900

28209  
(Zip code)

Registrant's telephone number, including area code:

Securities Registered Pursuant to Section 12(b) of the Act:

| Title of Each Class   | Name of Exchange on Which Registered |
|---|--------------------------------------|
| Common Stock, \$0.01 par value                                      | New York Stock Exchange              |
| 8.5000% Series A Cumulative Redeemable<br>Perpetual Preferred Stock | New York Stock Exchange              |

Securities Registered Pursuant to Section 12(g) of the Act:

None

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes  No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes  No

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

Indicate by check mark whether the registrant has submitted electronically and posted on our corporate Website, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes  No

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment of this Form 10-K.

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of large accelerated filer, accelerated filer and smaller reporting company in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer  Accelerated filer

Non-accelerated filer  (Do not check if a smaller reporting company) Smaller reporting company

Indicate by check mark whether the registrant is a Shell Company (as defined in rule 12b-2 of the Exchange Act). Yes  No

The aggregate market value of the common equity held by non-affiliates of the registrant as of June 30, 2011, the last business day of the registrant's most recently completed second fiscal quarter, was \$242,700,929 (based on the closing sale price of the registrant's common stock on that date as reported on the New York Stock Exchange).

Indicate the number of shares outstanding of each of the issuer's classes of common stock as of the latest practicable date: 51,248,442 shares of common stock, par value \$0.01 per share, outstanding as of March 8, 2012.



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**Statements Regarding Forward-Looking Information**

*When used in this discussion and elsewhere in this Annual Report on Form 10-K, the words believes, anticipates, projects, should, estimates, expects, and similar expressions are intended to identify forward-looking statements with the meaning of that term in Section 27A of the Securities Act of 1933, as amended (the Securities Act), and in Section 21F of the Securities Exchange Act of 1934, as amended. Actual results may differ materially due to uncertainties including the following:*

risks related to our proposed merger with Ventas, Inc. and the sale of the Erdman business;

changes in general economic and business conditions;

our ability to execute our business strategy;

our ability to comply with financial covenants in our debt instruments;

our ability to raise capital on terms that are favorable to us;

our ability to obtain future financing arrangements, including refinancing existing arrangements, on terms that are favorable to us;

estimates relating to our future distributions;

increased competition for tenants and new properties;

our ability to renew our ground leases;

legislative and regulatory changes (including changes to laws governing the taxation of REITs and individuals);

increases in costs of borrowing as a result of changes in interest rates;

our ability to maintain our qualification as a REIT due to economic, market, legal, or tax considerations;

changes in the reimbursement available to our tenants by government or private payors;

our tenants' ability to make rent payments and renew leases at the end of the term;

defaults by tenants and customers;

access to financing by customers;

delays in project starts and cancellations by customers;

our ability to convert design-build project opportunities into new engagements for us;

market trends; and

projected capital expenditures.

We undertake no obligation to update any forward-looking statement to reflect events or circumstances after the date on which the statement is made or to reflect the occurrence of unanticipated events. Readers are cautioned not to place undue reliance on any of these forward-looking statements.

The risks included here are not exhaustive. Other sections of this report may include additional factors that could adversely affect our business and financial performance. Moreover, we operate in a very competitive and rapidly changing environment. New risk factors emerge from time to time and it is not possible for management to predict all such risk factors, nor can it assess the impact of all such risk factors on our business or the extent to which any factor, or combination of factors, may cause actual results to differ materially from those contained in any forward-looking statements. Given these risks and uncertainties, investors should not place undue reliance on forward-looking statements as a prediction of actual results.

**Table of Contents****PART I**

*In this Annual Report on Form 10-K, unless the context requires otherwise, all references to we, us, our, our Company, and Cogdell Spencer refer to Cogdell Spencer Inc. and its consolidated subsidiaries, including Cogdell Spencer LP, our operating partnership subsidiary (the Operating Partnership).*

**Item 1. Business**  
**The Company**

Cogdell Spencer Inc. is a real estate investment trust ( REIT ) focused on planning, owning, developing, constructing, and managing healthcare facilities. We help our clients deliver superior healthcare through customized facilities, with high tenant satisfaction, and strategic management. We operate our business through Cogdell Spencer LP, our operating partnership subsidiary (the Operating Partnership ), and our subsidiaries.

Our growth strategy includes leveraging strategic relationships and our integrated platform for new developments, design-build construction projects for third parties, and off-market acquisitions. We also enter into development joint ventures with hospitals, physicians, and other partners.

We derive a majority of our revenues from two main sources: (1) rents received from tenants under leases in healthcare facilities; and (2) revenue earned from design-build construction contracts and development contracts.

Our property portfolio is stable with an occupancy rate of 92.5% as of December 31, 2011. We expect rental revenue to be stable due to leases with annual rental increases based on the Consumer Price Index ( CPI ). Generally, our property operating revenues and expenses have remained consistent over time except for growth due to property developments and property acquisitions. Our property management team provides a proactive, customer-focused service approach for tenants. We believe that a strong internal property management capability is a vital component of our business, both for properties we own and for those that we manage. Strong internal property management enables us to control property operating costs, increase tenant satisfaction, reduce tenant turnover, and build business relationships.

As of December 31, 2011, we owned and/or managed 118 medical office buildings and healthcare related facilities, totaling approximately 6.2 million net rentable square feet. Our portfolio consists of:

|   | September 30,<br>Number of<br>Properties | September 30,<br>Net Rentable<br>Square Feet<br>(in millions) | September 30,<br>Percentage<br>Leased |
|---|--|---|---------------------------------------|
| Stabilized properties:                  |  |   |                                       |
| Wholly-owned                            | 61                                       | 3.33  |                                       |
| Consolidated joint ventures             | 7  | 0.51  |                                       |
| Total stabilized properties             | 68                                       | 3.84  | 92.5%                                 |
| Fill-up properties <sup>(1)</sup> :     | 3  | 0.19  | 67.0%                                 |
| Total consolidated properties           | 71                                       | 4.03  |                                       |
| Unconsolidated joint venture properties | 3  | 0.21  |                                       |
| Properties managed for third parties    | 44                                       | 1.99  |                                       |
| Total portfolio                         | 118                                      | 6.23  |                                       |

<sup>(1)</sup> Fill-up properties are newly available properties that have not achieved underwritten stabilized occupancy.



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At December 31, 2011, 73.8% of our wholly-owned and consolidated properties were located on hospital campuses and an additional 11.5% were located off-campus, but were hospital anchored. We believe that our on-campus and hospital anchored assets occupy a premier franchise location in relation to local hospitals, providing our properties with a distinct competitive advantage over alternative medical office space in an area.

We have a national full-service planning, design and construction firm specializing in healthcare facilities. We provide fully integrated solutions to healthcare facilities throughout the United States, including planning, architecture, engineering, construction, materials management, manufacturing, capital and development services. We are a leading design-builder of healthcare facilities. Founded in 1951, we and our predecessors have a 60 year track record of and reputation for delivering healthcare facilities with appropriate design, longevity, sustainability and excellent operational efficiency. We maintain long-term trusted advisor status with physicians and physician groups nationwide. We have successfully cultivated a customer mix that is diversified in both geography and market focus and includes physician group practices and healthcare systems. At December 31, 2011, we had approximately \$49.6 million in unearned design-build backlog.

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**Proposed Merger with Ventas; Sale of Erdman Business**

***Merger with Ventas***

On December 24, 2011, we entered into an Agreement and Plan of Merger (the *merger agreement*) with our Operating Partnership, Ventas, Inc., a Delaware corporation (*Ventas*), TH Merger Corp, Inc., a Maryland corporation and Ventas wholly-owned subsidiary (*MergerSub*), and TH Merger Sub, LLC, a Delaware limited liability company and Ventas wholly owned subsidiary (*OP MergerSub*), and, together with Ventas and MergerSub, the *Purchaser Parties*). The merger agreement provides for the merger of us with MergerSub (the *Company Merger*) and the merger of OP MergerSub with and into the OP (the *Partnership Merger* and, together with the *Company Merger*, the *Mergers*).

At the effective time of the *Company Merger*, each share of our common stock that remains outstanding immediately prior to the effective time (other than shares of our common stock owned directly or indirectly, by us or any of our subsidiaries, Ventas, or MergerSub or any other direct or indirect subsidiary of Ventas (which shall be cancelled and retired and shall cease to exist and for which no consideration shall be delivered)) will be automatically cancelled and converted into the right to receive \$4.25 in cash (the *Per Share Consideration*), without interest.

At the effective time of the *Company Merger*, each share of our Series A Preferred Stock that remains outstanding immediately prior to the effective time (other than shares of Series A Preferred Stock owned, directly or indirectly, by us or any of our subsidiaries, Ventas, or MergerSub or any other direct or indirect subsidiary of Ventas (which shall be cancelled and retired and shall cease to exist and for which no consideration shall be delivered)) will be automatically cancelled and converted into the right to receive an amount in cash equal to \$25.00, plus all accrued and unpaid dividends thereon through and including the closing date of the *Company Merger* (the *Per Share Preferred Consideration*), without interest.

At the effective time of the *Partnership Merger*, each Operating Partnership unit (*OP Unit*) issued and outstanding immediately prior to the effective time (other than OP Units owned directly or indirectly, by us or any of our wholly owned subsidiaries) will be automatically cancelled and converted into the right to receive *Per Share Consideration*.

We have made customary representations and warranties in the merger agreement and have agreed to customary covenants, including covenants regarding the operation of our business prior to the closing and covenants prohibiting us from soliciting, providing information or entering into discussions concerning proposals relating to alternative business combination transactions, except in limited circumstances, prior to the receipt of stockholder approval of the *Company Merger*, relating to unsolicited proposals that constitute, or are reasonably expected to lead to, a superior proposal.

Ventas has represented and warranted to us that on the closing date the *Purchaser Parties* will have sufficient funds to satisfy all of the obligations of the *Purchaser Parties* under the merger agreement.

Completion of the *Company Merger* was subject to the approval of the affirmative vote of the holders of not less than a majority of the outstanding shares of our common stock, which we received at a special stockholders meeting held on March 9, 2012.

Completion of the merger is also subject to certain other conditions, including completion of the transactions contemplated by the Stock Purchase Agreement, dated December 24, 2011 (the *Erdman purchase agreement*) by and between Cogdell Spencer TRS Holdings, LLC (*TRS Holdings*) and Madison DB Acquisition, LLC (*Madison DB*) pursuant to which Madison DB will acquire all of the shares of our subsidiary, MEA Holdings, Inc. (*MEA*), which, together with its subsidiaries, engage in design-build and related development business under the Marshall Erdman name (the *Erdman business*).

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The merger agreement contains certain termination rights for us and Ventas. Upon termination of the merger agreement under specified circumstances, the parties may be required to pay the other party a termination fee. If we are required to pay a termination fee as a result of our entering into an alternative acquisition agreement or completing an alternative transaction, the amount of the termination fee is \$15 million plus reimbursement to Ventas for all reasonable out-of-pocket fees and expenses incurred by or on behalf of Ventas in an amount equal to \$5 million. The merger agreement also provides that Ventas will be required to pay us a termination fee of \$15 million plus expense reimbursement equal to \$5 million if the merger agreement is terminated under certain circumstances because Ventas fails to complete the Company Merger or otherwise breaches its obligations under the merger agreement. In certain other termination scenarios, we may be obligated to reimburse Ventas for its reasonable out-of-pocket fees and expenses equal to \$5 million, but will not be required to pay Ventas the termination fee.

### ***Sale of Erdman Business***

As discussed above, on December 24, 2011, TRS Holdings entered into the Erdman purchase agreement with Madison DB pursuant to which Madison DB will acquire the Erdman business. TRS Holdings will, prior to closing, contribute \$11,720,000 (subject to certain adjustments) to MEA. TRS Holdings also has extinguished certain intercompany indebtedness of MEA. At closing, Madison DB will pay \$1.00 to TRS Holdings and will contribute \$11,720,000 (subject to certain adjustments) in working capital to MEA. Consummation of the transactions contemplated by the Erdman purchase agreement is subject to customary closing conditions, including satisfaction of all conditions to closing of the Mergers.

Mr. David Lubar, one of our former directors, is a principal of the investment fund that is providing Madison DB with its required equity funding. Mr. Lubar was excluded from, and did not participate in, deliberations of our Board of Directors regarding the merger agreement or the Erdman purchase agreement.

Our stockholders will not receive any consideration from the sale of MEA pursuant to the Erdman purchase agreement distinct from the consideration received pursuant to the merger agreement. The terms of the Erdman purchase agreement permitted us to solicit competing proposals for the purchase of the Erdman business for the period from December 24, 2011 until February 10, 2012, which we refer to as the go-shop period. In early January 2012, we, with the assistance of our financial advisor, began actively soliciting indications of interest from third parties regarding the possible acquisition of the Erdman business. We, through our financial advisor, contacted approximately 100 parties that we believed represented credible potential purchasers for the Erdman business. Ten of those parties entered into non-disclosure agreements with us and were permitted to conduct due diligence and invited to consider submitting a competing proposal to purchase the Erdman business on the same terms and conditions reflected in the Erdman purchase agreement, subject to the requirement of a minimum incremental bid of at least \$500,000 more than the price to be paid by Madison DB. As of the conclusion of the go-shop period, no bidders submitted a competing proposal for the acquisition of the Erdman business. We have terminated the solicitation process and expect to proceed with a sale of the Erdman business to Madison DB, subject to satisfaction of the conditions set forth in each of the merger agreement and the Erdman purchase agreement.

Assuming all necessary conditions are satisfied, which cannot be guaranteed, the Mergers are expected to close in the second quarter of 2012. Under the terms of each of the merger agreement and the Erdman purchase agreement, if the transactions contemplated thereby have not been completed by June 29, 2012, the parties to those agreements may terminate without penalty.

### **Our Taxable REIT Subsidiaries ( TRSs )**

We elected to be taxed as a REIT for U.S. federal income tax purposes. To qualify as a REIT, a specified percentage of our gross income must be derived from real property sources, which would generally exclude our income from providing architectural, construction, development and property management services to third parties. To avoid realizing income would adversely affect our ability to qualify as a REIT, services such as architectural, construction, development, and property management are provided through our TRSs. The Operating Partnership has elected that our wholly owned and controlled TRS Holdings be treated as TRSs.

### **Business and Growth Strategies**

Our primary business objective is to maximize total risk-adjusted return to our stockholders through growth in cash available for distribution and appreciation in the value of our assets. We believe that developing and maintaining customer relationships is critical to this objective.

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### ***Operating Strategy***

Our operating strategy consists of the following principal elements:

#### *Strong Relationships with Physicians and Hospitals.*

Healthcare is fundamentally a local business. We have developed a reputation based on trust and reliability with physicians and hospitals. These relationships position us to secure new development projects and new property acquisition opportunities with both existing customers and prospective clients. Our strategy is to grow our portfolio by leveraging these relationships and our integrated platform to selectively develop new medical office buildings and healthcare facilities. We believe that physicians particularly value renting space from a trusted and reliable property owner providing an office environment meeting their specialized needs.

#### *Active Management of our Properties.*

We have developed a comprehensive approach to property management to maximize the operating performance of our medical office buildings and healthcare facilities, leading to high levels of tenant satisfaction. This fully-integrated property management enables us to provide high quality services on a cost-effective basis. Our operating efficiencies consistently exceed industry standards and control costs for tenants. We manage our properties to create an environment that supports successful medical practices. The properties are clean and conducive to the delivery of top-quality medical care. We believe prosperous tenants will maximize the value of our investments. Therefore, we are committed to maintaining our properties at the highest possible level.

#### *Preferred Locations.*

Approximately 73.8% of the net rentable square feet of our wholly-owned properties as of December 31, 2011, are on hospital campuses. On-campus properties are convenient for physician tenants and their patients and drive revenues for our physician-tenants. Many of these properties have a premier location in relation to the hospital, providing our properties with a distinct competitive advantage over alternative medical office space that are located farther away from the hospital. We have found that physician-tenants prefer convenience to a hospital campus, clean and attractive common areas, state-of-the-art amenities and tenant improvements tailored to each practice.

#### *Loyal and Diverse Tenant Base.*

A key component of our marketing and operating strategy is maintaining physician-tenant loyalty. A focus on physician-tenant loyalty and the involvement of the physician-tenants and hospitals as investors in our properties provides a stable and diversified tenant base. Our tenants are diversified by type of medical practice, medical specialty and sub-specialty. For the year ended December 31, 2011, no single tenant accounted for more than 6.6% of the annualized rental revenue at our consolidated properties.

#### *Differentiated Focus.*

We focus primarily on the ownership, development, redevelopment, acquisition, project delivery, and management of healthcare facilities in the United States of America. This focus allows us to own, develop, redevelop, acquire and manage healthcare facilities more effectively and profitably than our competition. Unlike many other public companies that simply engage in sale/leaseback arrangements in the healthcare real estate sector, we also operate our properties. We believe this focus enables us to achieve additional cash flow growth and appreciation in the value of our assets.

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### ***Development and Acquisition Strategy***

Our development and acquisition strategy consists of the following principal elements:

#### *Project delivery.*

Our project delivery teams focus on the development and design-build components of the integrated business model. We and our predecessor companies have developed and/or designed-built over 5,000 healthcare facilities including hospitals, medical office buildings, ambulatory surgery centers, wellness centers and multi-specialty clinics. We provide fully integrated healthcare real estate services including strategic planning, development, architecture, construction, and management. We have built strong relationships with leading healthcare systems desiring real estate solution to support the growth of medical communities near their hospitals and regional medical centers. Our focus on healthcare facilities is a competitive advantage over less specialized developers. Further, our regional focus provides extensive local industry knowledge across the United States of America. We believe the network of relationships that we have fostered in both the real estate and healthcare industries provides access to substantial development and acquisitions opportunities.

#### *Selective Development and Acquisitions.*

We intend to continue to grow our portfolio of healthcare facilities by selectively acquiring existing healthcare facilities and developing new projects where needed.

#### *Develop and Maintain Strategic Relationships.*

We have strategic relationships with physicians, hospitals, not-for-profit agencies and other sponsors of healthcare services to enhance our franchise. We enter into joint ventures with individual physicians, physician groups, hospitals, and local healthcare facilities developers. These joint ventures are a source of development and acquisition opportunities. We offer potential physician-tenants the opportunity to invest in our properties to increase their commitment to the property in which they practice. We work closely with our tenants to cultivate long-term working relationships and to maximize new business opportunities. We carefully consider customer objectives and needs when evaluating an investment opportunity. We believe this philosophy builds long-term relationships and produces franchise locations otherwise unavailable to our competition.

#### *Investment Criteria and Financing.*

We intend to expand in our existing markets and enter into new markets meeting our investment criteria. We generally seek customers and assets in locations complementing our existing portfolio. We may selectively pursue portfolio opportunities outside of our existing markets that we believe will create incremental value, provide diversification, and economies of scale.

In assessing a potential development or acquisition opportunity, we focus on the economics of the local medical community and the strength of local hospitals, with an emphasis on projects on a hospital campus or in a strategic growth corridor.

Historically, we financed real property developments and acquisitions through joint ventures with equity provided by physician-tenants, local hospitals, or regional medical centers. In conjunction with maintaining our strategic relationships, we plan to continue entering into joint ventures with individual physicians, physician groups and hospitals.

We have a \$200.0 million secured revolving credit facility (the Credit Facility). As of December 31, 2011, we had cash and cash equivalents of approximately \$16.7 million and our Credit Facility had approximately \$18.5 million of available borrowings, which we can use to finance development and acquisition opportunities. We plan to finance future developments and acquisitions through a combination of cash, borrowings under the Credit Facility, traditional secured mortgage financing, and equity and debt offerings.

### **Business Segments**

We have two identified reportable segments: (1) Property Operations and (2) Design-Build and Development. We define business segments by their distinct customer base and service provided. Each segment operates under a separate management group and produces discrete financial information, which is reviewed by the chief operating decision maker to make resource allocation decisions and assess performance. Inter-segment sales and transfers are accounted for as if the sales and transfers were made to third parties, which involve applying a negotiated fee to the costs of the services performed. All inter-company balances and transactions are eliminated during the consolidation process.



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Financial information concerning our business segments is presented in Note 7 to the accompanying Consolidated Financial Statements.

**Regulation**

The following discussion describes certain material U.S. federal laws and regulations that may affect our operations and those of our tenants. However, the discussion does not address state healthcare laws and regulations, except as otherwise indicated. These state laws and regulations, like the U.S. federal healthcare laws and regulations, may affect our operations and those of our tenants.

The regulatory environment remains stringent for healthcare providers. The Stark Law and fraud and abuse statutes that regulate hospital and physician relationships continue to broaden the industry's awareness of the need for experienced real estate management. Requirements for Medicare coding, physician recruitment and referrals, outlier charges to commercial and government payors, and corporate governance have created a difficult operating environment for some hospitals. Also, the Health Information Technology for Economic and Clinical Health Act (HITECH Act), signed into law on February 17, 2009, expanded the extensive requirements related to the privacy and security of individually identifiable health information imposed by regulations issued pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and contains enhanced enforcement provisions related to those requirements. In addition, the U.S. Congress enacted on March 23, 2010 the Patient Protection and Affordable Care Act (PPACA) that was intended to have a significant impact on the delivery and reimbursement of healthcare items and services. PPACA is the subject of current repeal initiatives in the U.S. Congress. Further, PPACA is being challenged through lawsuits pending in several U.S. courts. Given this uncertainty, we cannot predict the impact that PPACA or future healthcare legislation may have on us, our business or our tenants.

As our properties and entities are not healthcare providers, the healthcare regulatory restrictions that apply to physician investment in healthcare providers are not applicable to the ownership interests held by physicians in our properties except as discussed below. For example, the Stark law generally prohibits physicians from referring patients to an entity if the physicians have a financial relationship with or ownership interest in the entity and the entity provides designated health services. The Stark law does not apply to physician ownership in our entities because these entities do not own or operate any healthcare providers, nor do they provide any designated health services. In addition, the Federal Anti-Kickback Statute, which generally prohibits payment or solicitation of remuneration in exchange for referrals for items and services covered by federal healthcare programs to persons in a position to refer such business, also does not apply to ownership in the existing property entities because they do not provide or bill for medical services of any kind. Similar state laws that prohibit physician self referrals or kickbacks also do not apply for the same reasons.

Although our properties and entities are not healthcare providers, certain federal healthcare regulatory restrictions could be implicated by ownership interests held by physicians in our property entities because the properties and entities may have both physician and hospital owners and such hospitals and physicians may have financial relationships apart from our properties and entities creating direct and indirect financial relationships subject to these laws and regulations. For example, under the Stark law discussed above, a physician and hospital ownership in one of our entities may serve as a link in a chain of financial relationships connecting a physician and a hospital which must be analyzed by these parties for compliance with the requirements of the Stark law.

Generally, healthcare facilities are subject to various laws, ordinances and regulations. Changes in any of these laws or regulations, such as the Comprehensive Environmental Response and Compensation Liability Act, increase the potential liability for environmental conditions or circumstances existing or created by tenants or others on the properties. In addition, laws affecting development, construction, operation, maintenance, safety and taxation requirements may result in significant unanticipated expenditures, loss of healthcare real estate property sites or other impairments to operations, which may adversely affect our cash flows from operating activities.

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Under the Americans with Disabilities Act of 1990 ( ADA ), all places of public accommodation are required to meet certain U.S. federal requirements related to access and use by disabled persons. A number of additional U.S. federal, state and local laws also exist that may require modifications to properties, or restrict certain further renovations thereof, with respect to access thereto by disabled persons. Noncompliance with the ADA could result in the imposition of fines or an award of damages to private litigants and also could result in an order to correct any non-complying feature and in substantial capital expenditures. To the extent our properties are not in compliance, we may incur additional costs to comply with the ADA.

Property management activities are often subject to state real estate brokerage laws and regulations as determined by the particular real estate commission for each state.

In addition, state and local laws may regulate expansion, including the addition of new beds or services or acquisition of medical equipment, and the construction of healthcare facilities, by requiring a certificate of need, which is issued by the applicable state health planning agency only after that agency makes a determination that a need exists in a particular area for a particular service or facility, or other similar approval.

New laws and regulations, changes in existing laws and regulations, or changes in the interpretation of such laws or regulations could negatively affect the financial condition of our tenants. These changes, in some cases, could apply retroactively. The enactment, timing or effect of legislative or regulatory changes cannot be predicted. In addition, certain of our medical office buildings and healthcare facilities and their tenants may require licenses or certificates of need to operate. Failure to obtain a license or certificate of need, or loss of a required license would prevent a facility from operating in the manner intended by the tenants.

## **Environmental Matters**

Pursuant to U.S. federal, state and local environmental laws and regulations, a current or previous owner or operator of real property may be required to investigate, remove and/or remediate a release of hazardous substances or other regulated materials at or emanating from a property. Further, under certain circumstances, owners or operators of real property may be held liable for property damage, personal injury and/or natural resource damage in connection with such releases. Certain of these laws have been interpreted to be joint and several unless the harm is divisible and there is a reasonable basis for allocation of responsibility. The failure to properly remediate the property may also adversely affect the owner's ability to lease, sell or rent the property or to borrow funds using the property as collateral.

In connection with the ownership, operation and management of our properties, we could be legally responsible for environmental liabilities or costs relating to a release of hazardous substances or other regulated materials at or emanating from such property. To assess potential for liability, we conduct an environmental assessment of each property prior to acquisition and manage our properties in accordance with environmental laws. All of our leases contain a comprehensive environmental provision that requires tenants to conduct all activities in compliance with environmental laws and to indemnify the owner for any harm caused by the failure to do so. In addition, we have engaged qualified and reputable environmental consulting firms to perform environmental site assessments of all of our properties. We are not aware of any environmental issues that are expected to have materially impacted the operations of any property.

## **Insurance**

We maintain comprehensive liability, fire, flood, earthquake, wind (as deemed necessary or as required by our lenders), extended coverage, rental loss insurance, as well as commercial liability insurance, provided by reputable companies and with policy specifications, limits, and deductibles customarily carried for similar properties. Furthermore, we believe our businesses and assets are likewise adequately insured against casualty loss and third party liabilities. We actively manage the insurance component of the budget for each project. We engage a risk management consultant to assist with this process. Most of our leases provide that insurance premiums are considered part of the operating expenses of the respective property, and the tenants are therefore responsible for any increases in our premiums.



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Our business activities may expose us to potential liability under various environmental laws and under workplace health and safety regulations. We are unable to predict these potential liabilities. We maintain a comprehensive general liability policy with an umbrella policy that covers losses beyond the general liability limits. We also maintain professional errors and omissions liability and contractor's pollution liability insurance policies in amounts that we believe are adequate coverage for our business.

We obtain insurance coverage through a broker experienced in the professional liability field. The broker and our risk manager regularly review the adequacy of our insurance coverage. Because there are various exclusions and retentions under the policies, or an insurance carrier may become insolvent, there can be no assurance that all potential liabilities will be covered by our insurance policies or paid by our carriers.

We evaluate the risk associated with claims. If there is a determination that a loss is probable and reasonably estimable, an appropriate reserve is established. A reserve is not established if we determine that a claim has no merit or is not probable or reasonably estimable. Partially or completely uninsured claims, if successful and of significant magnitude, may have a material adverse effect on our business.

## **Competition**

We compete in developing, acquiring, and leasing medical facilities with public and private real estate companies and investors. We believe we have a depth of knowledge and experience in working with physicians, hospitals, not-for-profit agencies, and other sponsors of healthcare services making us an attractive real estate partner.

The market for design-build services is generally highly competitive and fragmented. Our competitors are numerous, consisting mainly of small and regional private firms. We believe we are well positioned to compete in our markets because of our healthcare industry specialization, long-term client relationships, and integrated delivery of services.

## **Employees**

As of December 31, 2011, we had 370 employees. Our professionals perform property management, acquisitions, real estate development, architecture, engineering, construction management and materials management services. Less than 5% of our employees are covered by collective bargaining agreements, which are subject to amendment in November 2012, or by specific labor agreements, which expire upon completion of the relevant project. There are no material disagreements with employees and we consider the relationships with our employees to be favorable.

## **Equity Offerings**

In January 2011, we issued approximately 0.3 million shares of 8.500% Series A Cumulative Redeemable Perpetual Preferred Stock ( Series A preferred shares ) in a follow-on offering, resulting in net proceeds of approximately \$8.2 million. The initial offering of Series A preferred shares occurred in December 2010. The net proceeds were used to reduce borrowings under the Credit Facility, to fund build to suit development projects, and for working capital and other general corporate purposes.

In December 2010, we sold 2.6 million shares of our 8.500% Series A Cumulative Redeemable Perpetual Preferred Stock, raising net proceeds of approximately \$62.6 million. We used the net proceeds to repay in full the \$50.0 million outstanding balance under a senior secured term loan that was scheduled to mature in March 2011, to reduce borrowings under the Credit Facility, to fund build to suit development projects, and for working capital and other general corporate purposes.

In May 2010, we issued 7.1 million shares of common stock, resulting in net proceeds to us of \$47.6 million. The net proceeds were used to fund development projects, reduce borrowings under the Credit Facility, and for working capital purposes.

## **Available Information**

We file our annual report on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K, and all amendments to those reports with the Securities and Exchange Commission (the SEC ). You may obtain copies of these documents by visiting the SEC's Public Reference Room at 100 F Street N.E., Washington, D.C. 20549, or by calling the SEC at 1-800-SEC-0330. The SEC also maintains a Website ([www.sec.gov](http://www.sec.gov)) that contains reports, proxy and information statements, and other information regarding issuers that file electronically with the SEC. Our Website is [www.cogdell.com](http://www.cogdell.com). Our reports on Forms 10-K, 10-Q and 8-K, and all amendments to those reports are posted on our Website as soon as reasonably practicable after the reports and amendments are electronically filed with or furnished to the SEC. The contents of our Website are not incorporated by reference herein.



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### **Item 1A. Risk Factors**

*Many risk factors affect our business. As discussed above, we have entered into the merger agreement with Ventas. The risks discussed below affect our business currently and many of those will continue to affect our business if the Mergers are completed. Certain of the risks below will affect our business only if the Mergers are not completed and we continue to operate as a stand-alone entity. The occurrence of a risk factor may materially adversely affect our business, financial condition, results of operations, ability to pay distributions to our stockholders and the trading price of our common stock.*

#### **Risks Related to the Mergers**

*Uncertainty regarding the proposed Mergers and the diversion of management's attention from our ongoing business operations could adversely affect our financial results.*

Uncertainty about the effect of the Mergers on employees and tenants may have an adverse effect on us. These uncertainties may impair our ability to attract, retain and motivate key personnel, and could cause tenants and others who deal with us to seek to change existing business relationships. Employee retention and recruitment may be particularly challenging, as employees and prospective employees may experience uncertainty about their future roles with the combined company.

In addition, the pursuit of the Mergers and the preparation for the integration may place a significant burden on management and internal resources. Any significant diversion of management attention away from ongoing business operations and any difficulties encountered in the transition and integration process could affect our financial results.

*We are subject to various contractual restrictions and requirements while the Mergers are pending that could adversely affect our financial results.*

The merger agreement restricts us, without Ventas' consent, from making certain acquisitions and dispositions, engaging in leasing activity, engaging in capital raising transactions and taking other specified actions while the Mergers are pending. In addition, the merger agreement requires that we sell the Erdman design-build and development business prior to closing and that we take steps to separate the Erdman business from the rest of our business pending the closing. These restrictions and requirements may prevent us from pursuing attractive business opportunities and making other changes to our business prior to completion of the Mergers or termination of the merger agreement.

*We may be unable to obtain satisfaction of all conditions to complete the Mergers in the anticipated timeframe, or at all.*

Completion of the Mergers is contingent upon the sale of the Erdman business, as well as customary closing conditions, including the absence of any injunction and certain other litigation. We may be unable to satisfy all the conditions to the Mergers, in which case the Mergers will not be consummated. In addition, satisfying the conditions to, and completion of, the merger may take longer than, and could cost more than, we expect. Any delay in completing the Mergers may adversely affect the benefits that we and Ventas expect to achieve from the Mergers and the integration of our businesses.

If the Mergers are not completed, our financial results may be adversely affected and we will be subject to several risks, including but not limited to:

payment to Ventas of a termination fee of \$15 million, plus \$5 million as reimbursement of its expenses, as specified in the merger agreement, depending on the nature of the termination; and

being subject to litigation related to any failure to complete the Mergers.

Any delay or inability to satisfy all conditions to complete the Mergers, or failure to complete the Mergers could negatively affect our future business, financial condition or results of operation.

*Certain of our directors and executive officers may have interests in the Mergers that may differ from the interests of our stockholders, including, if the Mergers are completed, the receipt of financial and other benefits.*



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Certain of our executive officers and directors may have interests in the Mergers that are in addition to, and may be different from, the interests of our stockholders generally. These interests include acceleration of vesting and payouts of their restricted stock and LTIP units, the right to potentially receive cash severance payments and other benefits under executive employment agreements.

*Pending litigation against us and the current members of our board of directors could result in an injunction preventing completion of the Mergers or the payment of damages in the event the Mergers are completed.*

On December 29, 2011, a complaint was filed in the Superior Court for State of North Carolina, Mecklenburg County, against us, our directors and Ventas on behalf of a putative class of similarly situated investors, alleging that the our board of directors breached its fiduciary duties regarding the Company Merger and that Ventas aided and abetted the alleged breach of fiduciary duties. Beginning on January 4, 2012, six other putative class action suits were filed in the Maryland Circuit Court for Baltimore City against the same defendants and alleging similar breach of fiduciary duty and aiding and abetting claims, although certain complaints also named our Operating Partnership, MergerSub and OP MergerSub as defendants. On January 27, 2012, we also received a letter from an entity purporting to be a stockholder demanding that the board terminate the Company Merger and the sale of the Erdman business and that the board conduct an investigation into the Company Merger and the sale of the Erdman business. The letter also made a request for access to certain books and records of the company related to the Company Merger and the sale of the Erdman business. The cases pending in Maryland were consolidated by the Court on January 31, 2012. On February 3, 2012, the plaintiff in the North Carolina action filed an amended complaint, and on February 9, 2012, the plaintiffs in the Maryland action filed an amended complaint, including the class and derivative actions. All of the pending cases ask that the Company Merger be enjoined and seek other unspecified monetary relief. On February 21, 2012, defendants moved to dismiss the amended complaint.

On February 29, 2012, we entered into a memorandum of understanding with the plaintiffs in the Maryland and North Carolina cases regarding the settlement of the pending claims. Pursuant to the terms of the proposed settlement, we agreed to make certain supplemental disclosures related to the proposed Company Merger. The memorandum of understanding contemplates that the parties will enter into a settlement agreement after a period of confirmatory discovery, which will be subject to customary conditions, including court approval following notice to our stockholders. In the event the parties enter into a settlement agreement, a hearing will be scheduled in which the Maryland Court will consider the fairness, reasonableness, and adequacy of the settlement. If the settlement is finally approved by the Court, it will resolve and release all claims in all actions that were or could have been brought challenging any aspect of the proposed Merger, the Merger Agreement, and any disclosure made in connection therewith, among other claims, pursuant to terms that will be disclosed to stockholders prior to final approval of the settlement.

In addition, in connection with the settlement, the parties contemplate that plaintiffs' counsel will file a petition in the Maryland Court for an award of attorneys' fees and expenses to be paid by or on behalf of Defendants, which Defendants may oppose. Defendants will pay or cause to be paid any attorneys' fees and expenses awarded by the Maryland Court. There can be no assurance that the parties will ultimately enter into a settlement agreement or that the Maryland Court will approve the settlement even if the parties were to enter into a settlement agreement. In such event, the proposed settlement as contemplated by the memorandum of understanding may be terminated.

One of the conditions to the closing of the Mergers is that no decree, ruling, judgment, decision, order or injunction shall have been entered by any court of competent jurisdiction that has the effect of prohibiting or restraining the completion of the Mergers. If for any reason the cases are not settled and if any of the plaintiffs are successful in obtaining an injunction prohibiting the defendants from completing the Mergers, then such injunction may prevent the Mergers from becoming effective or from becoming effective within the expected timeframe. [In addition, if any suit, action or proceeding before any court or other governmental entity shall have been instituted or shall be pending, with respect to certain matters disclosed in the merger agreement disclosure schedule, where an unfavorable outcome in such suit, action or proceeding would, in the sole and absolute discretion of Ventas, adversely affect the anticipated business or economic benefits to Ventas and its affiliates of the transactions contemplated by the merger agreement, the Mergers will not be completed. If completion of the Mergers is prevented or delayed, it could result in substantial costs to us. In addition, we could incur costs associated with the indemnification of our directors and officers.

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### **Risks Related to our Properties and Operations**

*Our real estate investments are concentrated in medical office buildings and healthcare facilities, making us more vulnerable economically than if our investments were diversified.*

As a REIT, we invest primarily in real estate. Within the real estate industry, we selectively own, develop, redevelop, acquire, and manage medical facilities. We are subject to risks inherent in concentrating investments in real estate. The risks resulting from a lack of diversification become even greater as a result of our business strategy to invest primarily in medical facilities. A downturn in the medical facilities industry or in the commercial real estate industry could materially adversely affect the value of our properties. A downturn in the healthcare industry could negatively affect our tenants' ability to make rent payments to us, which may have a material adverse effect on our business, financial condition, results of operations, and ability to make distributions to our stockholders. These adverse effects may be more pronounced than if we held a diverse portfolio of investments outside of real estate or outside of medical facilities.

*We depend on significant tenants.*

For the year ended December 31, 2011, our five largest tenants represented \$21.5 million, or 23.2%, of the annualized rent generated by our properties. Our five largest tenants based on annualized rents are Carolinas HealthCare System, Bon Secours St. Francis Hospital, East Jefferson General Hospital, Lancaster General Hospital, and Palmetto Health Alliance. Our significant tenants, as well as other tenants, may experience a downturn in their businesses, which may weaken their financial condition and result in their failure to make timely rental payments or default under their leases. In the event of any tenant default, we may experience delays in enforcing our rights as landlord and may incur substantial costs in protecting our investment.

*Recent market conditions in the U.S. and European economies, and other events or circumstances beyond our control, may continue to adversely affect our industry, business, results of operations, contractual commitments, and access to capital.*

Recent market conditions and continued uncertainty in the U.S. and European economies, including inflation, deflation or stagflation, the systemic impact of high levels of unemployment, volatile energy costs, geopolitical issues, the availability and cost of credit, the U.S. mortgage market and a distressed real estate market have contributed to increased market volatility and business and consumer confidence. This difficult operating environment may continue to adversely affect our ability to generate revenues and/or increase costs, thereby reducing our operating income and earnings. It may continue to adversely impact the ability of our tenants to maintain occupancy and rates in our properties. These economic conditions may continue to have a material adverse effect on our business, financial condition, results of operations, ability to make distributions to our stockholders and the trading price of our stock.

*Adverse economic or other conditions in the markets in which we do business may negatively affect our occupancy levels and rental rates and therefore our operating results.*

Our operating results are dependent upon maximizing occupancy levels and rental rates in our portfolio. Adverse economic or other conditions in the markets in which we operate may lower our occupancy levels and limit our ability to increase rents or require us to offer rental discounts. The following factors are primary among those which may adversely affect the operating performance of our properties:

periods of economic slowdown or recession, rising interest rates or declining demand for medical office buildings and healthcare facilities, or the public perception that any of these events may occur, could result in a general decline in rental rates or an increase in tenant defaults;

the national economic climate in which we operate, may be adversely impacted by, among other factors, a reduction in the availability of debt or equity financing, industry slowdowns, relocation of businesses and changing demographics;

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local or regional real estate market conditions such as the oversupply of medical office buildings and healthcare facilities or a reduction in demand for medical office buildings and healthcare facilities in a particular area;

negative perceptions by prospective tenants of the safety, convenience and attractiveness of our properties and the neighborhoods in which they are located;

earthquakes and other natural disasters, terrorist acts, civil disturbances or acts of war which may result in uninsured or underinsured losses; and

changes in tax, real estate and zoning laws.

The failure of our properties to generate revenues sufficient to meet our cash requirements, including operating and other expenses, debt service and capital expenditures, may have a material adverse effect on our business, financial condition, results of operations, our ability to make distributions to our stockholders and the trading price of our stock .

***The majority of our consolidated wholly-owned and joint venture properties are located in Georgia, North Carolina, and South Carolina, and changes in these markets may materially adversely affect us.***

Our consolidated wholly-owned and joint venture properties located in Georgia, North Carolina, and South Carolina, provided approximately 8.4%, 21.7% and 24.3%, respectively, of our total annualized rent for the year ended December 31, 2011. As a result of the geographic concentration of properties in these markets, we are particularly exposed to downturns in these local economies or other changes in local real estate market conditions. In the event of negative economic changes in these markets, our business, financial condition, results of operations, our ability to make distributions to our stockholders and the trading price of our stock may be materially and adversely affected.

***Our investments in development and redevelopment projects may not yield anticipated returns, which would harm our operating results and reduce the amount of funds available for distributions.***

A component of our growth strategy has included development and redevelopment opportunities. To the extent that we continue to engage in any development or redevelopment projects, we will be subject to the following risks normally associated with these projects:

we may be unable to obtain financing for these projects on attractive terms or at all;

we may not complete development projects on schedule or within budgeted amounts;

we may encounter delays or denials in obtaining all necessary zoning, land use, building, occupancy and other required governmental permits and authorizations;

occupancy rates and rents at newly developed or redeveloped properties may fluctuate depending on a number of factors, including market and economic conditions, and may result in our investment not being profitable; and

start-up costs may be higher than anticipated.

In deciding whether to develop or redevelop a particular property, we make certain assumptions regarding the expected future performance of that property. We may underestimate the costs necessary to bring the property up to the standards established for its intended market position or we may be unable to increase occupancy at a newly acquired property as quickly as expected or at all. Any substantial unanticipated delays or expenses could adversely affect the investment returns from these development or redevelopment projects and have a material adverse effect on our business, financial condition, results of operations, our ability to make distributions to our stockholders and the trading price of our stock.

## Edgar Filing: Cogdell Spencer Inc. - Form 10-K

We may in the future develop medical facilities in geographic regions where we do not currently have a significant presence and where we do not possess the same level of familiarity, which could adversely affect our ability to develop such properties successfully or at all or to achieve expected performance.

We have relied, and in the future may rely, on the investments of our joint venture partners for the funding of our development and redevelopment projects. If our reputation in the healthcare real estate industry changes or the number of investors considering us as an attractive strategic partner is otherwise reduced, our ability to develop or redevelop properties could be adversely affected, which would limit our potential for growth.



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If our investments in development and redevelopment projects do not yield anticipated returns for any reason, including those set forth above, our business, financial condition, results of operations, ability to make distributions to our stockholders and the trading price of our stock may be materially and adversely affected.

*We may not be successful in identifying and consummating suitable acquisitions or investment opportunities, which may impede our growth and negatively affect our results of operations.*

Our ability to expand through acquisitions has been a component of our long-term growth strategy and has required us to identify suitable acquisition candidates or investment opportunities that meet our criteria and are compatible with our growth strategy. To the extent that we continue to make new acquisitions or investments, we may not be successful in identifying suitable properties or other assets that meet our acquisition criteria or in consummating acquisitions or investments on satisfactory terms or at all. Failure to identify or consummate acquisitions or investment opportunities will slow our growth.

To the extent that we acquire properties in the future, our ability to acquire such properties on attractive terms and successfully integrate and operate them may be constrained by the following factors:

failure to finance an acquisition on attractive terms or at all;

competition from other real estate investors with significant capital, including other publicly-traded REITs and institutional investment funds;

competition from other potential acquirers may significantly increase the purchase price for an acquisition property, which could reduce our profitability;

unsatisfactory results of our due diligence investigations or failure to meet other customary closing conditions;

we may spend more than the time and amounts budgeted to make necessary improvements or renovations to acquired properties; and

we may acquire properties subject to liabilities and without any recourse, or with only limited recourse, with respect to unknown liabilities such as liabilities for clean-up of undisclosed environmental contamination, claims by persons in respect of events transpiring or conditions existing before we acquired the properties and claims for indemnification by general partners, directors, officers and others indemnified by the former owners of the properties.

If any of these risks are realized, our business, financial condition, results of operations, ability to make distributions to our stockholders and the trading price of our stock may be materially and adversely affected.

*We may not be able to obtain additional capital to further our business objectives.*

Our ability to develop, redevelop or acquire properties depends upon our ability to obtain capital. During the recent financial and economic crisis, the global economy, including the capital and credit markets, experienced a period of substantial turmoil and uncertainty, which restricted the availability of capital. A lack of capital may cause a decrease in the level of new investment activity by publicly traded real estate companies. Furthermore, a prolonged period in which we cannot effectively access the public equity or debt markets may result in heavier reliance on alternative financing sources to undertake new investments. An inability to obtain equity or debt capital on acceptable terms could delay or prevent us from acquiring, financing and completing desirable investments, and which could otherwise adversely affect our business. If any of these risks are realized, our business, financial condition, results of operations, ability to make distributions to our stockholders and the trading price of our stock may be materially and adversely affected.

*If we are unable to promptly re-let our properties on terms that are favorable to us, if at all, or we are required to undertake significant capital expenditures to attract new tenants, then our business and results of operations would be adversely affected.*

A substantial number of our leases are on a multiple year basis. As of December 31, 2011, leases representing 15.5% of our net rentable square feet will expire in 2012, 9.5% in 2013 and 9.8% in 2014. These expirations would account for 16.3%, 9.3% and 10.3% of our annualized rent, respectively. Approximately 61.9% of the square feet of our properties and 61.3% of the number of our

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properties are subject to certain restrictions. These restrictions include limits on our ability to re-let these properties to tenants not affiliated with the healthcare system that own the underlying property, rights of first offer on sales of the property and limits on the types of medical procedures that may be performed. In addition, in order to maintain occupancy, we have had to lower our rental rates to re-let certain spaces, and we may be required to do so again in the future, which could impede our growth. We cannot assure you that we will be able to re-let space on terms that are favorable to us or at all. Further, due to the age of some of our properties, as well as the specialized nature of our tenants, we have been required to make significant capital expenditures to renovate or reconfigure space to attract new tenants and we may be required to do so in the future. If we are unable to promptly re-let our properties, if the rates upon such re-letting are significantly lower than expected, or if we are required to undertake significant capital expenditures in connection with re-letting units, our business, financial condition, results of operations, ability to make distributions to our stockholders and the trading price of our stock may be materially and adversely affected.

***Certain of our properties may not have efficient alternative uses.***

Some of our properties, such as our ambulatory surgery centers, are specialized healthcare facilities. If we or our tenants terminate the leases for these properties or our tenants lose their regulatory authority to operate such properties, we may not be able to locate suitable replacement tenants to lease the properties for their specialized uses. Alternatively, we may be required to spend substantial amounts to adapt the properties to other uses. Any loss of revenues and/or additional capital expenditures occurring as a result may have a material adverse effect on our business, financial condition, results of operations, ability to make distributions to our stockholders and the trading price of our stock.

***We face competition for the acquisition of medical facilities, which may impede our ability to make future acquisitions or may increase the cost of these acquisitions.***

We compete with many other entities engaged in real estate investment activities for acquisitions of medical facilities, including national, regional and local operators, acquirers and developers of healthcare real estate properties. The competition for medical facilities may significantly increase the price we must pay for medical facilities or other assets we seek to acquire and our competitors may succeed in acquiring those properties or assets themselves. In addition, our potential acquisition targets may find our competitors to be more attractive because they may have greater resources, may be willing to pay more for the properties or may have a more compatible operating philosophy. In particular, larger healthcare REITs may enjoy significant competitive advantages that result from, among other things, a lower cost of capital and enhanced operating efficiencies. In addition, the number of entities and the amount of funds competing for suitable investment properties may increase. This competition may result in increased demand for these assets and therefore increased prices paid for them. Because of an increased interest in single-property acquisitions among tax-motivated individual purchasers, we may pay higher prices if we purchase single properties in comparison with portfolio acquisitions. If we pay higher prices for medical facilities or other assets, our business, financial condition, results of operations, ability to make distributions to our stockholders and the trading price of our stock may be materially and adversely affected.

***We may not be successful in integrating and operating acquired properties.***

If we make acquisitions of medical office buildings and healthcare facilities in the future, we will be required to integrate them into our existing portfolio. The acquired properties may turn out to be less compatible with our growth strategy than originally anticipated, may cause disruptions in our operations or may divert management's attention away from day-to-day operations, any or all of which may have a material adverse effect on our business, financial condition, results of operations, ability to make distributions to our stockholders and the trading price of our stock.

***Our medical facilities, their associated hospitals and our tenants may be unable to compete successfully.***

Our medical facilities and their associated hospitals often face competition from nearby hospitals and other medical facilities that provide comparable services. Some of those competing facilities are owned by governmental agencies and supported by tax revenues, and others are owned by nonprofit corporations and may be supported to a large extent by endowments and charitable contributions. These types of support are not available to our buildings.

Similarly, our tenants face competition from other medical practices in nearby hospitals and other healthcare facilities. Our tenants' failure to compete successfully with these other practices could adversely affect their ability to make rental payments, which could adversely affect our rental revenues. Further, from

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time to time and for reasons beyond our control, referral sources, including physicians and managed care organizations, may change their lists of hospitals or physicians to which they refer patients. This could adversely affect our tenants' ability to make rental payments, which could adversely affect our rental revenues.

We depend upon its tenants to operate their businesses in a manner which generates revenue sufficient to allow them to meet their obligations to us, including their obligation to pay rent. Any reduction in rental revenues resulting from the inability of our medical office buildings and healthcare facilities, their associated hospitals and our tenants to compete successfully may have a material adverse effect on our business, financial condition and results of operations.

***Uninsured losses or losses in excess of our insurance coverage could adversely affect our financial condition and our cash flow.***

We maintain comprehensive liability, fire, flood, earthquake, wind (as deemed necessary or as required by our lenders), extended coverage and rental loss insurance for our properties with policy specifications, limits and deductibles customarily carried for similar properties. Certain types of losses, however, may be either uninsurable or not economically insurable, such as losses due to earthquakes, riots, acts of war or terrorism. Should an uninsured loss occur, we could lose both our investment in and anticipated profits and cash flow from a property. If any such loss is insured, we may be required to pay a significant deductible on any claim for recovery of such a loss prior to our insurer being obligated to reimburse us for the loss, or the amount of the loss may exceed our coverage for the loss. In addition, future lenders may require certain insurance coverage, and our failure to obtain such insurance could constitute a default under loan agreements. As a result, our business, financial condition, results of operations, ability to make distributions to our stockholders and the trading price of our stock may be materially and adversely affected.

***Joint investments could be adversely affected by our lack of sole decision-making authority and reliance upon a co-venturer's financial condition.***

We have co-invested with third parties through partnerships, joint ventures, co-tenancies and other entities, acquiring non-controlling interests in, or sharing responsibility for managing the affairs of a property, partnership, joint venture, co-tenancy or other entity. Therefore, we may not be in a position to exercise sole decision-making authority regarding that property, partnership, joint venture or other entity. Investments in partnerships, joint ventures, or other entities may involve risks not present were a third party not involved, including the possibility that our partners, co-tenants or co-venturers might become bankrupt or otherwise fail to fund their share of required capital contributions. Additionally, our partners or co-venturers might at any time have economic or other business interests or goals, which are inconsistent with our business interests or goals. These investments may also have the potential risk of impasses on decisions such as a sale, because neither we nor the partner, co-tenant or co-venturer has full control over the partnership or joint venture. Consequently, actions by such partner, co-tenant or co-venturer might result in subjecting properties owned by the partnership or joint venture to additional risk. In addition, we may in specific circumstances be liable for the actions of third-party partners, co-tenants or co-venturers. As a result, our business, financial condition, results of operations, ability to make distributions to our stockholders and the trading price of our stock may be materially and adversely affected.

***Our mortgage agreements and ground and air rights leases contain certain provisions that may limit our ability to sell certain of our medical office buildings and healthcare facilities.***

In order to assign or transfer our rights and obligations under certain of our mortgage agreements, we generally must:

obtain the consent of the lender;

pay a fee equal to a fixed percentage of the outstanding loan balance; and

pay any costs incurred by the lender in connection with any such assignment or transfer.

In addition, ground and air rights leases on certain of our properties contain restrictions on transfer such as limiting the assignment or subleasing of the facility only to practicing physicians or physicians in good standing with an affiliated hospital. These provisions of our mortgage agreements and ground and air rights leases may limit our ability to sell certain of our medical office buildings and healthcare facilities which, in turn, could adversely impact the price realized from any such sale. As a result, our business, financial condition, results of operations, ability to make distributions to our stockholders and the trading price of our stock may be materially and adversely affected.



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*Thirty-four of our consolidated wholly-owned and joint venture properties are subject to ground or air rights leases that expose us to the loss of such properties upon breach or termination of the ground or air rights leases.*

We have 34 consolidated wholly-owned and joint venture properties that are subject to leasehold interests in the land or air underlying the buildings and we may acquire additional buildings in the future that are subject to similar ground or air rights leases. As of December 31, 2011, these 34 consolidated wholly-owned and joint venture properties represent 53.7% of our total net rentable square feet. As lessee under a ground or air rights lease, we are exposed to the possibility of losing the property upon termination, or an earlier breach by us, of the ground lease, which may have a material adverse effect on our business, financial condition, results of operations, ability to make distributions to our stockholders and the trading price of our stock.

*Environmental compliance costs and liabilities associated with operating our properties may affect our results of operations.*

Under various U.S. federal, state and local laws, ordinances and regulations, owners and operators of real estate may be liable for the costs of investigating and remediating certain hazardous substances or other regulated materials affecting the property. These laws often impose liability without regard to whether the owner or operator knew of, or was responsible for, the presence of hazardous substances or materials. The presence of hazardous substances or materials, or the failure to properly remediate these substances, may adversely affect the owner's or operator's ability to lease, sell or rent the property or to borrow using the property as collateral. Persons who arrange for the disposal or treatment of hazardous substances or other regulated materials may be liable for the costs of removal or remediation of such substances at a disposal or treatment facility, whether or not the facility is owned or operated by the person. Certain environmental laws impose liability for release of asbestos-containing materials into the air and third parties may seek recovery from owners or operators of real properties for personal injury associated with asbestos-containing materials.

Certain environmental laws also impose liability, without regard to knowledge or fault, for removal or remediation of hazardous substances or other regulated materials upon owners and operators of contaminated property even after they no longer own or operate the property. Moreover, the past or present owner or operator from which a release emanates may be liable for any personal injuries or property damages that may result from such releases, as well as any damages to natural resources that may arise from such releases. Certain environmental laws impose compliance obligations on owners and operators of real property with respect to the management of hazardous materials and other regulated substances. For example, environmental laws govern the management of asbestos-containing materials and lead-based paint. Failure to comply with these laws can result in penalties or other sanctions.

No assurances can be given that existing environmental studies with respect to any of our properties reveal all environmental liabilities, that any prior owner or operator of our properties did not create any material environmental condition not known to us, or that a material environmental condition does not otherwise exist as to any one or more of our properties. There also exists the risk that material environmental conditions, liabilities or compliance concerns may have arisen after the review was completed or may arise in the future. Finally, future laws, ordinances or regulations and future interpretations of existing laws, ordinances or regulations may impose additional material environmental liability.

The realization of any or all of these risks may have a material adverse effect on our business, financial condition, results of operations, and ability to make distributions to our stockholders, and the trading price of our stock.

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***Costs associated with complying with the Americans with Disabilities Act of 1990 may result in unanticipated expenses.***

Under the Americans with Disabilities Act of 1990, or the ADA, all places of public accommodation are required to meet certain U.S. federal requirements related to access and use by disabled persons. A number of additional U.S. federal, state and local laws may also require modifications to our properties, or restrict certain further renovations of the properties, with respect to access thereto by disabled persons. Noncompliance with the ADA could result in the imposition of fines or an award of damages to private litigants and/or an order to correct any non-complying feature, which could result in substantial capital expenditures. We have not conducted an audit or investigation of all of our properties to determine our compliance and we cannot predict the ultimate cost of compliance with the ADA or other legislation. If one or more of our properties is not in compliance with the ADA or other related legislation, then we would be required to incur additional costs to bring the facility into compliance. If we incur substantial costs to comply with the ADA or other related legislation, our business, financial condition, results of operations, ability to make distributions to our stockholders and the trading price of our stock may be materially and adversely affected.

***The bankruptcy or insolvency of our tenants under our leases could seriously harm our operating results and financial condition.***

We receive a substantial amount of our income as rent payments under leases of space in our properties. We have no control over the success or failure of our tenants' businesses and, at any time, any of our tenants may experience a downturn in its business that may weaken its financial condition. As a result, our tenants may delay lease commencement or renewal, fail to make rent payments when due, or declare bankruptcy. Any leasing delays, lessee failures to make rent payments when due, or tenant bankruptcies could result in the termination of a tenant's lease and, particularly in the case of a large tenant, may have a material adverse effect on our business, financial condition and results of operations and our ability to make distributions to our stockholders.

If tenants are unable to comply with the terms of our leases, we may be forced to modify lease terms in ways that are unfavorable to us. Alternatively, the failure of a tenant to perform under a lease or to extend a lease upon expiration of its term could require us to declare a default, repossess the property, find a suitable replacement tenant, operate the property, or sell the property. There is no assurance that we will be able to lease the property on substantially equivalent or better terms than the prior lease, or at all. We may not be able to find another tenant, successfully reposition the property for other uses, successfully operate the property, or sell the property on terms that are favorable to us.

If any lease expires or is terminated, we will be responsible for all of the operating expenses for that vacant space until it is re-let. If we experience high levels of vacant space, our operating expenses may increase significantly. Any significant increase in our operating costs may have a material adverse effect on our business, financial condition, results of operations, ability to make distributions to our stockholders and the trading price of our stock.

Any bankruptcy filings by or relating to one of our tenants could bar all efforts by us to collect pre-bankruptcy debts from that lessee or seize its property, unless we receive an order permitting us to do so from the bankruptcy court, which we may be unable to obtain. A tenant bankruptcy could also delay our efforts to collect past due balances under the relevant leases and could ultimately preclude full collection of these sums. If a tenant assumes the lease while in bankruptcy, all pre-bankruptcy balances due under the lease must be paid to us in full. However, if a tenant rejects the lease while in bankruptcy, we would have only a general unsecured claim for pre-petition damages. Any unsecured claim we hold may be paid only to the extent that funds are available and only in the same percentage paid to all other holders of unsecured claims. It is possible that we may recover substantially less than the full value of any unsecured claims we hold, if any, which may have a material adverse effect on our business, financial condition, results of operations, ability to make distributions to our stockholders and the trading price of our stock. Furthermore, dealing with a tenant bankruptcy or other default may divert management's attention and cause us to incur substantial legal and other costs.

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**Risks Related to our Design-Build and Development Segment**

*Continuing adverse economic conditions could cause our clients to delay, curtail or cancel proposed or existing projects, which could result in a decrease in demand for our services.*

The demand for our services has been, and will likely continue to be, cyclical in nature and vulnerable to general downturns in the U.S. economy. Adverse economic conditions may decrease our clients' willingness or ability to make capital expenditures or otherwise reduce their spending to purchase our services, which could result in reduced revenues or margins for our business. Many of our clients finance their projects through cash flow from operations, the incurrence of debt or the issuance of equity. Furthermore, our clients may be affected by economic downturns that decrease the need for their services or the profitability of their services, which could result in a decrease of their cash flow from operations. A reduction in our clients' cash flow from operations and the lack of availability of debt or equity financing could cause our clients to delay, curtail or cancel proposed or existing projects, which could result in a decrease in demand for our services. As a result, our business, financial condition, results of operations, ability to make distributions to our stockholders and the trading price of our stock may be materially and adversely affected.

*Our results of operations depend upon the award of new design-build contracts and the nature and timing of those awards.*

Our design-build revenues are derived primarily from contracts awarded on a project-by-project basis. Generally, it is very difficult to predict whether and when we will be awarded a new contract since many potential contracts involve a lengthy and complex bidding and selection process that may be affected by a number of factors, including changes in existing or assumed market conditions, financing arrangements, governmental approvals and environmental matters. Because our design-build revenues are derived primarily from these contracts, our results of operations and cash flows can fluctuate materially from period to period depending on the timing of contract awards.

In addition, adverse economic conditions could alter the overall mix of services that our clients seek to purchase, and increased competition during a period of economic decline could result in we accepting contract terms that are less favorable to us than it might otherwise be able to negotiate. Changes in our mix of services or a less favorable contracting environment may cause our revenues and margins to decline. As a result, our business, financial condition, results of operations, ability to make distributions to our stockholders and the trading price of our stock may be materially and adversely affected.

*If we experience delays and/or defaults in client payments, we could be unable to recover all expenditures.*

Because of the nature of our design-build contracts, we may at times commit our financial resources to projects prior to receiving payments from the client in amounts sufficient to cover expenditures on the projects as they are incurred. Delays in client payments may require us to make a working capital investment. If a client defaults in making payments on a project in which we have devoted significant financial resources, it could have a material adverse effect on our business. This risk can be exacerbated as a result of a downturn in economic conditions, including recent developments in the economy and capital markets.

*We may experience reduced profits or, in some cases, losses under our guaranteed maximum price contracts if costs increase above our estimates.*

Most of our design-build contracts are currently negotiated guaranteed maximum price or fixed price contracts, giving our clients a clear understanding of the project's costs but also locking us in so that we bear a significant portion or all of the risk for cost overruns. Under these guaranteed maximum price or fixed price contracts, contract prices payable by clients are established in part on cost and scheduling estimates which are based on a number of assumptions, including assumptions about future economic conditions, prices and availability of labor, equipment and materials, and other exigencies. If these estimates prove inaccurate, or we encounter other unanticipated difficulties with respect to projects under guaranteed maximum price or fixed price contracts (such as errors, omissions or other deficiencies in the components of projects designed by or on behalf of us, problems with new technologies, difficulties in obtaining permits or approvals, adverse weather, unknown or unforeseen conditions, labor actions or disputes, changes in legal requirements, unanticipated decisions, interpretations or actions by governmental authorities having jurisdiction over our projects, fire or other casualties, terrorist or similar acts, unanticipated difficulty or delay in obtaining materials or equipment, unanticipated increase in the cost of materials or equipment, failures or defaults of suppliers or subcontractors to perform, or other causes within



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or beyond the control of we which delay the performance or completion of a project or increase our cost of performing the services and work to complete the project), cost overruns may occur, and we could experience reduced profits or, in some cases, a loss for that project. The existence or impact of these and other items may not be or become known until the end of a project which may negatively affect our cash flows and results of operations. As a result, our business, financial condition, results of operations, ability to make distributions to our stockholders and the trading price of our stock may be materially and adversely affected.

***The nature of our design-build and development business creates exposure to potential liabilities and disputes which may reduce our profits.***

We engage in engineering, architecture, construction and other services where design, construction or systems failures can result in substantial injury or damage to clients and/or third parties. In addition, the nature of our business results in clients, subcontractors, vendors, suppliers and governmental authorities occasionally asserting claims against us for damages or losses for which they believe we are liable, including damages and/or losses (including consequential damages or losses) arising from allegations of: (1) defective, nonconforming, legally noncompliant or otherwise deficient design, materials, equipment or workmanship; (2) late performance, completion or delivery of all or any portion of a project; (3) bodily injury, sickness, disease or death; (4) injury to or destruction of property; (5) failure to design or perform work in accordance with applicable laws, statutes, ordinances, and regulations of any governmental authority; (6) violations of the Federal Occupational Safety and Health Act, or any other laws, ordinances, rules regulations or orders of any Federal, State or local public authority having jurisdiction for the safety of persons or property, including but not limited to any Fire Department and Board of Health; (7) violations or infringements of any trademark, copyright or patent, or any unfair competition, or infringement of any other tangible or intangible personal or property rights; and (8) failure to pay parties providing services, labor, materials, equipment, supplies and similar items to projects.

Many of our design-build contracts do not limit our liability for damages or losses. These claims often arise in the normal course of our business, and may be asserted with respect to projects completed and/or past occurrences. When it is determined that we have liability, such liability may not be covered by insurance or, if covered, the dollar amount of the liability may exceed our policy limits. Any liability not covered by insurance, in excess of insurance limits or, if covered by insurance but subject to a high deductible, could result in significant loss, which could reduce profits and cash available for operations. Furthermore, claims asserting liability for these and other matters, whether for projects previously completed or projects to be completed in the future, may not be asserted or otherwise become known until a later date. Performance problems and/or liability claims for existing or future projects could adversely impact our reputation within its industry and among its client base, making it more difficult to obtain future projects. As a result, our business, financial condition, results of operations, ability to make distributions to our stockholders and the trading price of our stock may be materially and adversely affected.

***Environmental compliance costs and liabilities associated with our business may affect our results of operation.***

Our operations are subject to environmental laws and regulations, including those concerning:

generation, storage, handling, treatment and disposal of hazardous material and wastes;

emissions into the air;

discharges into waterways; and

health and safety.

Our projects often involve highly regulated materials, including hazardous wastes. Environmental laws and regulations generally impose limitations and standards for regulated materials and require us to obtain permits and comply with various other requirements. The improper characterization, handling, or disposal of regulated materials or any other failure by us to comply with federal, state and local environmental laws and regulations or associated environmental permits could subject us to the assessment of administrative, civil and criminal penalties, the imposition of investigatory or remedial obligations, or the issuance of injunctions that could restrict or prevent our ability to operate its business and complete contracted projects.



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In addition, under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ( CERCLA ), and comparable state laws, we may be required to investigate and remediate regulated materials. CERCLA and the comparable state laws typically impose liability without regard to whether a company knew of or caused the release, and liability for the entire cost of clean-up can be imposed upon any responsible party.

The environmental, workplace, employment and health and safety laws and regulations, among others, to which we are subject to are complex, change frequently and could become more stringent in the future. It is impossible to predict the effect that any future changes to these laws and regulations could have on us. Any failure to comply with these laws and regulations could materially adversely affect our business, financial condition, results of operations, and ability to make distributions to our stockholders, and the trading price of our stock.

### **Risks Related to the Healthcare Industry**

*Future changes to healthcare laws, implementation of healthcare legislation and adverse trends in healthcare provider operations may negatively affect our lease revenues and our ability to make distributions to our stockholders.*

The healthcare industry is currently experiencing:

changes in the demand for and methods of delivering healthcare services;

changes in third party reimbursement policies;

substantial competition for patients among healthcare providers;

continued pressure by private and government payors to reduce payments to providers of services; and

increased scrutiny of billing, referral and other practices by U.S. federal and state authorities.

These factors may adversely affect the economic performance of some or all of our tenants and, in turn, our lease revenues, which may have a material adverse effect on our business, financial condition, results of operations, ability to make distributions to our stockholders and the trading price of our stock.

In addition, on March 23, 2010, the U.S. Congress enacted the Patient Protection and Affordable Care Act ( PPACA ) that was intended to have a significant impact on the delivery and reimbursement of healthcare items and services. Currently, PPACA is the subject of repeal initiatives in the U.S. Congress. In addition, PPACA is being challenged through lawsuits pending in several U.S. courts. See Business Regulation. While any preliminary decisions in these lawsuits are subject to appeal and while it is unclear whether any provisions of PPACA will be amended or repealed due to current legislative initiatives, the uncertainty concerning whether and when any or all of the provisions of PPACA will be implemented, or if implemented, their impact on the healthcare delivery system as a whole, make it difficult to predict the corresponding impact on our tenants. The implementation of PPACA or future healthcare legislation may have a material adverse effect on our business, financial condition, results of operations, ability to make distributions to our stockholders and the trading price of our stock.

*Reductions in reimbursement from third party payors, including Medicare and Medicaid, could adversely affect the profitability of our tenants and hinder their ability to make rent payments to us.*

Sources of revenue for our tenants may include the U.S. federal Medicare program, state Medicaid programs, private insurance carriers and health maintenance organizations, among others. Declining reimbursement from government and private payors has increased pressure on healthcare providers to continue to control or reduce costs. Additional reductions in reimbursement may result from the implementation of PPACA or from future healthcare reform legislation enacted by the U.S. Congress or from regulations issued by the Centers for Medicare and Medicaid Services. Similar efforts by private payors to reduce reimbursement in order to attempt to reduce healthcare costs will likely continue. Budget reduction measures by state governments are likely to result in further reductions in reimbursement from Medicaid and other state

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funded healthcare programs. In addition, the failure of our tenants to comply with various laws and regulations could jeopardize their ability to continue participating in Medicare, Medicaid and other government payment programs. A reduction in reimbursements to our tenants from third party payors for any reason, including without limitation exclusion from participation in any government payor program, could adversely affect our tenants' ability to make rent payments to us, which may have a material adverse effect on our business, financial condition, results of operations, ability to make distributions to our stockholders and the trading price of our stock.

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***The healthcare industry is heavily regulated, and new laws or regulations, changes to existing laws or regulations, loss of licensure or failure to obtain licensure could result in the inability of our tenants to make rent payments to us.***

The healthcare industry is heavily regulated by U.S. federal, state and local governmental bodies. Our tenants generally will be subject to laws and regulations covering, among other things, licensure, certification for participation in government programs and relationships with physicians and other referral sources, and the privacy and security of individually identifiable health information. Also, PPACA included amendments to laws that may apply to our tenants which enhance the ability of the government to investigate, enforce and impose fines and penalties for, violations of these laws. This enhanced government authority to enforce these laws and the imposition of any resulting fines or penalties upon one of our tenants or associated hospitals could jeopardize that tenant's ability to operate or to make rent payments or affect the level of occupancy in our medical office buildings or healthcare facilities associated with that hospital, which may have a material adverse effect on our business, financial condition, results of operations, ability to make distributions to our stockholders and the trading price of our stock.

In addition, some state and local laws regulate new healthcare services and the expansion of existing healthcare services, including the addition of new beds or services, the acquisition of medical equipment, and the construction of healthcare related facilities, by requiring a certificate of need or other comparable approvals. These approvals are issued by the applicable state health planning agency only after that agency makes a determination that a need exists in a particular area for a particular service, equipment or facility. New laws and regulations, changes in existing laws and regulations or changes in the interpretation of such laws or regulations could negatively affect the financial condition of our tenants. These changes, in some cases, could apply retroactively. The enactment, timing or effect of legislative or regulatory changes cannot be predicted. In addition, certain of our medical office buildings and healthcare facilities and their tenants may require licenses or certificates of need to operate. Failure to obtain a license or certificate of need, or loss of a required license would prevent a facility from operating in the manner intended by the tenant. These events could adversely affect our tenants' ability to make rent payments to us, which may have a material adverse effect on our business, financial condition, results of operations, ability to make distributions to our stockholders and the trading price of our stock.

Privacy and security regulations issued pursuant to Health Insurance Portability and Accountability Act, and subsequent amendments thereto included in the Health Information Technology for Economic and Clinical Health Act (as amended, "HIPAA"), extensively regulate the use and disclosure of individually identifiable health information. These laws and regulations: (i) permit the U.S. Department of Health and Human Services to impose civil monetary penalties; (ii) allow state attorneys general to bring civil actions for HIPAA violations; and (iii) require the U.S. Department of Health and Human Services to conduct audits of covered entities, such as healthcare providers, to determine their compliance with HIPAA. The cost of complying with these requirements or the imposition of penalties for HIPAA violations could adversely affect the ability of a tenant to make rent payments to us, which may have a material adverse effect on our business, financial condition, results of operations, ability to make distributions to our stockholders and the trading price of our stock.

***Our tenants are subject to the Stark Law and fraud and abuse laws, the violation of which by a tenant may jeopardize the tenant's ability to make rent payments to us.***

There are various federal and state laws prohibiting fraudulent and abusive business practices by healthcare providers who participate in, receive payments from or are in a position to make referrals in connection with government healthcare programs, including the Medicare and Medicaid programs. Our lease arrangements with certain tenants may also be subject to the Stark Law and fraud and abuse laws, to the extent these lease arrangements create indirect financial relationships between the tenants and us that are subject to these laws and regulations.

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These laws that may apply to our tenants include:

the Federal Anti-Kickback Statute, which prohibits, among other things, the offer, payment, solicitation or receipt of any form of remuneration in return for, or to induce, the referral of Medicare and Medicaid patients;

the Stark Law, which, subject to specific exceptions, restricts physicians who have financial relationships with healthcare providers from making referrals for specifically designated health services for which payment may be made under Medicare or Medicaid programs to an entity with which the physician, or an immediate family member, has a financial relationship;

the False Claims Act, which prohibits any person from knowingly presenting false or fraudulent claims for payment to the federal government, including under the Medicare and Medicaid programs; and

the Civil Monetary Penalties Law, which authorizes the Department of Health and Human Services to impose monetary penalties for certain fraudulent acts.

Each of these laws includes criminal and/or civil penalties for violations that range from punitive sanctions, damage assessments, penalties, imprisonment, denial of Medicare and Medicaid payments and/or exclusion from the Medicare and Medicaid programs. Additionally, certain laws, such as the False Claims Act, allow for individuals to bring whistleblower actions on behalf of the government for violations thereof. PPACA included amendments to each of these laws which enhance the ability of the government to investigate, enforce, and impose fines and penalties for violation of these laws. The enhanced government authority to enforce these laws and the imposition of any resulting penalties upon one of our tenants or associated hospitals could jeopardize that tenant's ability to operate or to make rent payments or affect the level of occupancy in our medical office buildings or healthcare facilities associated with that hospital, which may have a material adverse effect on our business, financial condition, results of operations, ability to make distributions to our stockholders and the trading price of our stock.

### **Risks Related to the Real Estate Industry**

*Illiquidity of real estate investments could significantly impede our ability to respond to adverse changes in the performance of our properties.*

Because real estate investments are relatively illiquid, our ability to promptly sell one or more properties in our portfolio in response to changing economic, financial and investment conditions is limited. The real estate market is affected by many factors, such as general economic conditions, availability of financing, interest rates and other factors, including supply and demand, that are beyond our control. We cannot predict whether we will be able to sell any property for the price or on the terms set by us or whether any price or other terms offered by a prospective purchaser would be acceptable to us. We also cannot predict the length of time needed to find a willing purchaser and to close the sale of a property.

We may be required to expend funds to correct defects or to make improvements before a property can be sold. We cannot assure you that we will have funds available to correct those defects or to make those improvements. In acquiring a property, we may agree to transfer restrictions that materially restrict us from selling that property for a period of time or impose other restrictions, such as a limitation on the amount of debt that can be placed or repaid on that property. These transfer restrictions would impede our ability to sell a property even if we deem it necessary or appropriate. These facts and any others that would impede our ability to respond to adverse changes in the performance of its properties may have a material adverse effect on our business, financial condition, results of operations, ability to make distributions to our stockholders and the trading price of our stock.

*Any investments in unimproved real property may take significantly longer to yield income-producing returns, if at all, and may result in additional costs to us to comply with re-zoning restrictions or environmental regulations.*

We may invest in unimproved real property. Unimproved properties generally take longer to yield income-producing returns based on the typical time required for development. Any development of unimproved real property may also expose us to the risks and uncertainties associated with re-zoning the land for a higher use or development and environmental concerns of governmental entities and/or



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community groups. Any unsuccessful investments or delays in realizing an income-producing return or increased costs to develop unimproved real property could restrict our ability to earn its targeted rate of return on an investment or adversely affect our ability to pay operating expenses, which may have a material adverse effect on our business, financial condition, results of operations, ability to make distributions to our stockholders and the trading price of our stock.

### **Risks Related to Debt Financings**

*Required payments of principal and interest on borrowings may leave us with insufficient cash to operate our properties or to pay the distributions currently contemplated or necessary to qualify as a REIT and may expose us to the risk of default under our debt obligations.*

At December 31, 2011, we have approximately \$453.6 million of outstanding indebtedness, of which \$277.8 million is mortgage debt that is secured by performing properties, \$95.0 million is outstanding under our Credit Facility, and \$80.8 million is outstanding under our Term Loan Facility. Approximately \$16.4 million and \$11.6 million of our outstanding indebtedness will mature in 2012 and 2013, respectively. Additionally, we will repay approximately \$5.2 million and \$6.0 million in principal amortization in 2012 and 2013, respectively. If we engage in future development or redevelopment projects or acquisitions, we expect to incur additional debt in connection with such projects and acquisitions, which may include borrowings under our Credit Facility. Additionally, we do not anticipate that our internally generated cash flow will be adequate to repay our existing indebtedness upon maturity and, therefore, we expect to repay our indebtedness through our Credit Facility, refinancing, and future offerings of equity and/or debt.

If we are required to utilize our Credit Facility for purposes other than development, redevelopment and acquisition activities, this will reduce the amount available for development and redevelopment projects and acquisitions and could slow our growth. Therefore, our level of debt and the limitations imposed on us by our debt agreements could have adverse consequences, including the following:

our cash flow may be insufficient to meet our required principal and interest payments;

we may be unable to borrow additional funds as needed or on favorable terms, including to make acquisitions;

we may be unable to refinance our indebtedness at maturity or the refinancing terms may be less favorable than the terms of our original indebtedness;

because a portion of our debt bears interest at variable rates, an increase in interest rates could materially increase our interest expense;

we may be forced to dispose of one or more of our properties, possibly on disadvantageous terms;

after debt service, the amount available for distributions to our stockholders is reduced;

our debt level could place us at a competitive disadvantage compared to our competitors with less debt;

we may experience increased vulnerability to economic and industry downturns, reducing our ability to respond to changing business and economic conditions;



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we may default on our obligations and the lenders or mortgagees may foreclose on our properties that secure their loans and receive an assignment of rents and leases;

we may violate financial covenants which would cause a default on our obligations;

we may inadvertently violate non-financial restrictive covenants in our loan documents, such as covenants that require us to maintain the existence of entities, maintain insurance policies and provide financial statements, which would entitle the lenders to accelerate our debt obligations; and

we may default under any one of our mortgage loans with cross-default or cross-collateralization provisions that could result in default on other indebtedness or result in the foreclosures of other properties.

The realization of any or all of these risks may have a material adverse effect on our business, financial condition, results of operations, ability to make distributions to our stockholders and the trading price of our stock.

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*As a result of recent market events, including the contraction among and failure of certain lenders, it may be more difficult for us to secure financing.*

Our results of operations may be materially affected by conditions in the financial markets and the economy generally. Over the past several years, uncertainty over inflation, energy costs, geopolitical issues, unemployment, the availability and cost of credit, the mortgage market and a real estate market have contributed to increased volatility in access to and cost of capital.

Since 2008, housing market conditions have resulted in significant asset write-downs by financial institutions, which have caused many financial institutions to seek additional capital, merge with other institutions and, in some cases, to fail. We rely on the availability of financing to execute our business strategy. Institutions from which we may seek to obtain financing may have owned or financed residential mortgage loans, real estate-related securities and real estate loans which have declined in value and caused losses as a result of the recent downturn. Many lenders and institutional investors have reduced and, in some cases, ceased to provide funding to borrowers, including other financial institutions. If these conditions persist, these institutions may become insolvent. As a result of recent market events, it may be more difficult for us to secure financing as there are fewer institutional lenders and those remaining lenders have tightened their lending standards.

As a result of these events, it may be more difficult for us to obtain financing on attractive terms, or at all, and our business, financial condition, results of operations, ability to make distributions to our stockholders and the trading price of our stock may be materially and adversely affected.

*Our ability to pay distributions is dependent on a number of factors and is not assured, and our distributions to stockholders may decline at any time.*

We are prevented by the terms of the merger agreement from paying any additional distributions on our shares of common stock prior to closing. If we do make any future distributions, our ability to make such distributions depends upon a variety of factors, including efficient management of our properties and the successful implementation by us of a variety of our growth initiatives, and may be adversely affected by the risks described elsewhere in this Annual Report on Form 10-K. All distributions will be made at the discretion of the Board of Directors and depend on our earnings, our financial condition, the REIT distribution requirements and other factors that the Board of Directors may consider from time to time. We cannot assure you that the level of our distributions will increase over time or that we will be able to maintain our future distributions at levels that equal or exceed our historical distributions. We may be required to fund future distributions either from borrowings under our Credit Facility, with the proceeds from equity offerings, which could be dilutive, or from property sales, which could be at a loss, or reduce such distributions. As a result, our business, financial condition, results of operations, ability to make distributions to our stockholders and the trading price of our stock may be materially and adversely affected.

*Our outstanding debt obligations prohibit us from redeeming the Series A Preferred Stock.*

We are, and may in the future become, party to agreements and instruments, which, among other things, restrict or prevent the payment of dividends on or the redemption of our classes and series of capital stock. Our Credit Facility prohibits us from redeeming or otherwise repurchasing any shares of our stock, including the Series A Preferred Stock, during the term of the Credit Facility. This restriction may prohibit us from redeeming the outstanding Series A Preferred Stock even if we believe to do so would be in the best interests of our stockholders. As a result, our business, financial condition, results of operations, ability to make distributions to our stockholders and the trading price of our stock may be materially and adversely affected.

*Our organizational documents contain no limitations on the amount of debt we may incur.*

Our organizational documents contain no limitations on the amount of indebtedness that we may incur. We could alter the balance between our total outstanding indebtedness and the value of our wholly-owned properties at any time. If we becomes more highly leveraged, the resulting increase in debt service could adversely affect our ability to make payments on our outstanding indebtedness and to pay our anticipated distributions and/or the distributions required to qualify as a REIT, and may have a material adverse effect on our business, financial condition, results of operations, ability to make distributions to our stockholders and the trading price of our stock.

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***Increases in interest rates may increase our interest expense and adversely affect our cash flow and our ability to service our indebtedness and make distributions to our stockholders.***

As of December 31, 2011, we have approximately \$453.6 million of outstanding indebtedness, of which approximately \$215.4 million, or 47.5%, is subject to variable interest rates (excluding debt subject to variable to fixed interest rate swap agreements). This variable rate debt had a weighted average interest rate of approximately 3.6% per year as of December 31, 2011. Increases in interest rates on this variable rate debt would increase our interest expense, which could adversely affect our cash flow and our ability to pay distributions. For example, if market rates of interest on this variable rate debt increased by 100 basis points, the increase in interest expense would decrease future earnings and cash flows by approximately \$2.2 million annually. As a result, our business, financial condition, results of operations, ability to make distributions to our stockholders and the trading price of our stock may be materially and adversely affected.

***Failure to hedge effectively against interest rate changes may adversely affect our results of operations.***

In certain cases, we may seek to manage our exposure to interest rate volatility by using interest rate hedging arrangements. Hedging involves risks, such as the risk that the counterparty may fail to honor its obligations under an arrangement, that the arrangements may not be effective in reducing our exposure to interest rate changes and that a court could rule that such an agreement is not legally enforceable. In addition, we may be limited in the type and amount of hedging transactions we may use in the future by our need to satisfy the REIT income tests under the Code. Failure to hedge effectively against interest rate changes may have a material adverse effect on our business, financial condition, results of operations, ability to make distributions to our stockholders and the trading price of our stock.

***Our Credit Facility and our Term Loan Facility contain covenants that could limit our operations and our ability to make distributions to our stockholders.***

Our Credit Facility and our Term Loan Facility contain financial and operating covenants, including tangible net worth requirements, fixed charge coverage and debt ratios and other limitations on our ability to make distributions or other payments to our stockholders (other than those required by the Code), sell all or substantially all of our assets and engage in mergers, consolidations and certain acquisitions.

The Credit Facility and the Term Loan Facility contain customary terms and conditions for credit facilities of this type including, but not limited to: (1) affirmative covenants relating to our corporate structure and ownership, maintenance of insurance, compliance with environmental laws and preparation of environmental reports, maintenance of our REIT qualification and listing on the New York Stock Exchange (the NYSE), and (2) negative covenants relating to restrictions on redemptions of preferred stock, liens, indebtedness, certain investments (including loans and certain advances), mergers and other fundamental changes, sales and other dispositions of property or assets and transactions with affiliates. The Credit Facility and the Term Loan Facility have financial covenants to be met by us at all times including a maximum total leverage ratio (65% through March 31, 2013, and 60% thereafter), maximum secured recourse indebtedness ratio, excluding the indebtedness under the Credit Facility (15%), minimum fixed charge coverage ratio (1.35 to 1.00 through March 31, 2012, and 1.50 to 1.00 thereafter), minimum consolidated tangible net worth (\$237.1 million plus 80% of the net proceeds of equity issuances issued after the closing date of March 1, 2011) and minimum net operating income ratio from properties secured under the Credit Facility to Credit Facility interest expense (1.50 to 1.00).

These covenants may restrict our ability to engage in transactions that we believe would otherwise be in the best interests of our stockholders. Failure to comply with any of the covenants in the Credit Facility and the Term Loan Facility could result in a default. This could cause one or more of our lenders to accelerate the timing of payments and may have a material adverse effect on our business, financial condition, results of operations, ability to make distributions to our stockholders and the trading price of our stock.

***If lenders under our Credit Facility fail to meet their funding commitments, our financial position would be negatively impacted.***

Access to external capital on favorable terms is critical to our success in growing and maintaining its portfolio. If financial institutions within our Credit Facility were unwilling or unable to meet their respective funding commitments to us, any such failure could have a material adverse effect on our business, financial condition, results of operations, ability to make distributions to our stockholders and the trading price of our stock.

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**Risks Related to our Organization and Structure**

*Our business could be harmed if key personnel terminate their employment with us.*

Our success depends, to a significant extent, on the continued services of members of our senior management team. In addition, our ability to continue to acquire and develop properties depends on the significant relationships our senior management team has developed. There is no guarantee that any of them will remain employed by us. We do not maintain key person life insurance on any of our officers. The loss of services of one or more members of our senior management team could have a material adverse effect on our business, financial condition, results of operations, ability to make distributions to our stockholders and the trading price of our stock.

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*We may pursue less vigorous enforcement of terms of contribution and other agreements because of conflicts of interest with certain of our directors and officers.*

Mr. Charles M. Handy, our Chief Financial Officer, Executive Vice President and Secretary, and other members of our management team and board of directors, have direct or indirect ownership interests in certain properties contributed to the Operating Partnership at the initial public offering. We, under the agreements relating to the contribution of such interests, are entitled to indemnification and damages in the event of breaches of representations or warranties made by the contributors. We may choose not to enforce, or to enforce less vigorously, our rights under these agreements because of our desire to maintain our ongoing relationships with the individual party to these agreements. In connection with the acquisition of MEA Holdings, Inc. Holdings, Inc., we entered into various agreements with MEA Holdings, Inc., including the merger agreement, pursuant to which we are entitled to indemnification and damages in the event of breaches of representations and warranties made by MEA Holdings, Inc. Because certain other key employees and personnel were also former owners, officers and directors of MEA Holdings, Inc., we may choose not to enforce, or to enforce less vigorously, our rights under these agreements. In addition, we are party to an employment agreement with Mr. Handy, which provide for additional severance following termination of employment if we elect to subject the executive officer to certain non-competition, confidentiality and non-solicitation provisions. Although their employment agreements require that they devote substantially all of their full business time and attention to us, if the executive officer forgoes the additional severance, he will not be subject to such non-competition provisions, which would allow him to compete with us. None of these agreements were negotiated on an arm's-length basis. As a result, our business, financial condition, results of operations, ability to make distributions to our stockholders and the trading price of our stock may be materially and adversely affected.

*Conflicts of interest could arise as a result of our UPREIT structure.*

Conflicts of interest could arise in the future as a result of the relationships between us and our affiliates, on the one hand, and the Operating Partnership or any partner thereof, on the other. Our directors and officers have duties to us under applicable Maryland law in connection with their management of us. At the same time, we, through our wholly-owned subsidiary, have fiduciary duties, as a general partner, to the Operating Partnership and to the limited partners under Delaware law in connection with the management of the Operating Partnership. Our duties, through our wholly-owned subsidiary, as a general partner to the Operating Partnership and its partners may come into conflict with the duties of our directors and officers. The partnership agreement of the Operating Partnership does not require us to resolve such conflicts in favor of either our stockholders or the limited partners in the Operating Partnership.

Unless otherwise provided for in the relevant partnership agreement, Delaware law generally requires a general partner of a Delaware limited partnership to adhere to fiduciary duty standards under which it owes its limited partners the highest duties of good faith, fairness and loyalty and which generally prohibit such general partner from taking any action or engaging in any transaction as to which it has a conflict of interest.

Additionally, the partnership agreement expressly limits our liability by providing that neither we, nor our wholly-owned Maryland business trust subsidiary, as the general partner of the Operating Partnership, nor any of us or its trustees, directors or officers, will be liable or accountable in damages to the Operating Partnership, the limited partners or assignees for errors in judgment, mistakes of fact or law or for any act or omission if the general partner or such trustee, director or officer, acted in good faith. In addition, the Operating Partnership is required to indemnify us, our affiliates and each of our respective trustees, officers, directors, employees and agents to the fullest extent permitted by applicable law against any and all losses, claims, damages, liabilities (whether joint or several), expenses (including, without limitation, attorneys' fees and other legal fees and expenses), judgments, fines, settlements and other amounts arising from any and all claims, demands, actions, suits or proceedings, civil, criminal, administrative or investigative, that relate to the operations of the Operating Partnership, provided that the Operating

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Partnership will not indemnify any such person for (1) willful misconduct or a knowing violation of the law, (2) any transaction for which such person received an improper personal benefit in violation or breach of any provision of the partnership agreement, or (3) in the case of a criminal proceeding, the person had reasonable cause to believe the act or omission was unlawful.

The provisions of Delaware law that allow the common law fiduciary duties of a general partner to be modified by a partnership agreement have not been resolved in a court of law, and we have not obtained an opinion of counsel covering the provisions set forth in the partnership agreement that purport to waive or restrict our fiduciary duties that would be in effect under common law were it not for the partnership agreement. As a result, our business, financial condition, results of operations, ability to make distributions to our stockholders and the trading price of our stock may be materially and adversely affected.

*Certain provisions of our organizational documents, including the stock ownership limit imposed by our charter, could prevent or delay a change in control transaction.*

Our charter, subject to certain exceptions, authorizes our directors to take such actions as are necessary and desirable to preserve our qualification as a REIT and to limit any person to actual or constructive ownership of (1) 7.75% (by value or by number of shares, whichever is more restrictive) of our outstanding common stock, (2) 7.75% (by value or by number of shares, whichever is more restrictive) of our outstanding Series A Preferred Stock or (3) 7.75% (by value or by number of shares, whichever is more restrictive) of our outstanding capital stock. The Board of Directors, in its sole discretion, may exempt additional persons from the ownership limit. However, the Board of Directors may not grant an exemption from the ownership limit to any proposed transferee whose ownership could jeopardize our qualification as a REIT. These restrictions on ownership will not apply if the Board of Directors determines that it is no longer in our best interests to attempt to qualify, or to continue to qualify, as a REIT. The ownership limit may delay or impede a transaction or a change of control that might involve a premium price for our common stock, or otherwise be in the best interests of our stockholders. As a result, our business, financial condition, results of operations, ability to make distributions to our stockholders and the trading price of our stock may be materially and adversely affected.

*Certain provisions of Maryland law may limit the ability of a third party to acquire control of us.*

Certain provisions of the Maryland General Corporation Law, or the MGCL, may have the effect of delaying, deferring or preventing a transaction or a change in control of us that might involve a premium price for holders of our common stock or otherwise be in their best interests, including:

business combination provisions that, subject to certain limitations, prohibit certain business combinations between us and an interested stockholder (defined generally as any person who beneficially owns 10% or more of the voting power of our shares or an affiliate thereof) for five years after the most recent date on which the stockholder becomes an interested stockholder, and thereafter impose special minimum price provisions and special stockholder voting requirements on these combinations; and

control share provisions that provide that control shares of us (defined as shares which when aggregated with other shares controlled by the stockholder, entitle the stockholder to exercise one of three increasing ranges of voting power in electing directors) acquired in a control share acquisition (defined as the direct or indirect acquisition of ownership or control of control shares) have no voting rights except to the extent approved by our stockholders by the affirmative vote of at least two-thirds of all the votes entitled to be cast on the matter, excluding all interested shares.

These provisions of the MGCL relating to business combinations do not apply, however, to business combinations that are approved or exempted by a board of directors prior to the time that the interested stockholder becomes an interested stockholder. Pursuant to the statute, the Board of Directors has by resolution exempted the Company Merger from the business combination provisions discussed above.

In addition, the Board of Directors has exempted Mr. Cogdell, his affiliates and associates and all persons acting in concert with the foregoing, and Mr. Spencer, his affiliates and associates and all persons acting in concert with the foregoing, from these provisions of the MGCL and, consequently, the five-year prohibition and the supermajority vote requirements will not apply to business combinations between us

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and these persons. As a result, these persons may be able to enter into business combinations with us that may not be in the best interests of our stockholders without compliance by us with the supermajority vote requirements and the other provisions of the statute. In addition, our by-laws contain a provision exempting from the provisions of the MGCL relating to control share acquisitions any and all acquisitions by any person of our common stock. There can be no assurance that such provision will not be amended or eliminated at any time in the future.

Additionally, Title 3, Subtitle 8 of the MGCL permits the Board of Directors, without stockholder approval and regardless of what is currently provided in our charter or bylaws, to take certain actions that may have the effect of delaying, deferring or preventing a transaction or a change in control of us that might involve a premium to the market price of our common stock or otherwise be in our stockholders' best interests. As a result, our business, financial condition, results of operations, ability to make distributions to our stockholders and the trading price of our stock may be materially and adversely affected.

***The Board of Directors has the power to cause us to issue additional shares of our stock and the general partner has the power to issue additional OP units without stockholder approval.***

Our charter authorizes the Board of Directors to cause us to issue additional authorized but unissued shares of common stock or preferred stock, and to amend our charter to increase the aggregate number of authorized shares or the authorized number of shares of any class or series without stockholder approval. The general partner will be given the authority to issue additional OP units or preferred units. In addition, the Board of Directors may classify or reclassify any unissued shares of common stock or preferred stock and set the preferences, rights and other terms of the classified or reclassified shares. The Board of Directors could cause us to issue additional shares of our common stock or Series A Preferred Stock, or establish an additional series of preferred stock that could have the effect of delaying, deferring or preventing a change in control or other transaction that might involve a premium price for our common stock, or otherwise be in the best interests of our stockholders. As a result, our business, financial condition, results of operations, ability to make distributions to our stockholders and the trading price of our stock may be materially and adversely affected.

***Our rights and the rights of our stockholders to take action to recover money damages from our directors and officers are limited.***

Our charter eliminates our directors' and officers' liability to us and our stockholders for money damages, except for liability resulting from actual receipt of an improper benefit in money, property or services or active and deliberate dishonesty established by a final judgment and which is material to the cause of action. Our charter authorizes us, and our bylaws require us, to indemnify our directors and officers for liability resulting from actions taken by them in those capacities to the maximum extent permitted by Maryland law. In addition, we may be obligated to fund the defense costs incurred by our directors and officers. As a result, our business, financial condition, results of operations, ability to make distributions to our stockholders and the trading price of our stock may be materially and adversely affected.

***You will have limited ability as a stockholder to prevent us from making any changes to our policies that you believe could harm our business, prospects, operating results or share price.***

The Board of Directors will adopt policies with respect to certain activities, such as investments, dispositions, financing, lending, our equity capital, conflicts of interest and reporting. These policies may be amended or revised from time to time at the discretion of the Board of Directors without a vote of our stockholders. This means that our stockholders will have limited control over changes in our policies. Such changes in our policies intended to improve, expand or diversify our business may not have the anticipated effects and consequently may have a material adverse effect on our business, financial condition, results of operations, ability to make distributions to our stockholders and the trading price of our stock.

***To the extent our distributions represent a return of capital for U.S. federal income tax purposes you could recognize an increased capital gain upon a subsequent sale by you of our common stock or preferred stock.***

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Distributions in excess of our current and accumulated earnings and profits and not treated by us as a dividend will not be taxable to a U.S. stockholder to the extent those distributions do not exceed the stockholder's adjusted tax basis in its common stock, but instead will constitute a return of capital and will reduce the stockholder's adjusted tax basis in its common stock. If distributions result in a reduction of a stockholder's adjusted basis in such holder's common stock, subsequent dispositions of such holder's common stock potentially will result in recognition of an increased capital gain or reduced capital loss due to the reduction in such adjusted basis.

### **Risks Related to Qualification and Operation as a REIT**

*Our failure to qualify or remain qualified as a REIT would have significant adverse consequences to us.*

We intend to operate in a manner that will allow us to qualify as a REIT for U.S. federal income tax purposes under the Code. We have not requested and do not plan to request a ruling from the IRS that we qualify as a REIT, and the statements in our prospectus and other filings are not binding on the IRS or any court. If we fail to qualify or lose our qualification as a REIT, we will face serious tax consequences that would substantially reduce the funds available for distribution to our stockholders for each of the years involved because:

we would not be allowed a deduction for distributions to stockholders in computing our taxable income and we would be subject to U.S. federal income tax at regular corporate rates;

we also could be subject to the U.S. federal alternative minimum tax and possibly increased state and local taxes; and

unless we are entitled to relief under applicable statutory provisions, we could not elect to be taxed as a REIT for four taxable years following a year during which we were disqualified.

In addition, if we lose our qualification as a REIT, we will not be required to make distributions to stockholders, and all distributions to our stockholders will be subject to tax as regular corporate dividends to the extent of our current and accumulated earnings and profits. This means that our U.S. individual stockholders would be taxed on our dividends at a maximum U.S. federal income tax rate of 15% (through 2012), and our corporate stockholders generally would be entitled to the dividends received deduction with respect to such dividends, subject, in each case, to applicable limitations under the Code.

Qualification as a REIT involves the application of highly technical and complex Code provisions and regulations promulgated thereunder for which there are only limited judicial and administrative interpretations. The complexity of these provisions and of the applicable U.S. Treasury Department regulations, or Treasury Regulations, that have been promulgated under the Code is greater in the case of a REIT that, like us, holds its assets through a partnership. The determination of various factual matters and circumstances not entirely within our control may affect our ability to qualify as a REIT. In order to qualify as a REIT, we must satisfy a number of requirements, including requirements regarding the composition of our assets and sources of our gross income. Also, we must make distributions to stockholders aggregating annually at least 90% of our net taxable income, excluding capital gains.

As a result of these factors, our loss of our qualification as a REIT also could impair our ability to expand our business and raise capital. Also, our business, financial condition, results of operations, ability to make distributions to our stockholders and the trading price of our stock may be materially and adversely affected.

*To maintain its REIT qualification, we may be forced to borrow funds during unfavorable market conditions.*

To qualify as a REIT, we generally must distribute to our stockholders at least 90% of our net taxable income each year, excluding net capital gains, and we will be subject to regular corporate income taxes to the extent that we distribute less than 100% of our net taxable income each year. In addition, we will be subject to a 4% nondeductible excise tax on the amount, if any, by which distributions paid by us in any calendar year are less than the sum of 85% of our ordinary income, 95% of our capital gain net income and 100% of our undistributed income from prior years. To qualify as a REIT and avoid the payment of income and excise taxes, we may need to borrow funds on a short-term basis, or possibly on a long-term basis, to meet the REIT distribution requirements even if the then prevailing market conditions are not favorable for these borrowings. These borrowing needs could result from, among other things, a difference in timing





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between the actual receipt of cash and inclusion of income for U.S. federal income tax purposes, the effect of non-deductible capital expenditures, the creation of reserves or required debt amortization payments. As a result, our business, financial condition, results of operations, ability to make distributions to our stockholders and the trading price of our stock may be materially and adversely affected.

***Dividends payable by REITs generally do not qualify for reduced tax rates.***

The maximum tax rate for dividends payable by domestic corporations to individual U.S. stockholders is 15% (through 2012). Dividends payable by REITs, however, are generally not eligible for the reduced rates. The more favorable rates applicable to regular corporate dividends could cause stockholders who are individuals to perceive investments in REITs to be relatively less attractive than investments in the stocks of non-REIT corporations that pay dividends, which could adversely affect the value of the stock of REITs, including our common stock.

In addition, the relative attractiveness of real estate in general may be adversely affected by the favorable tax treatment given to corporate dividends, which could negatively affect the value of our properties.

***Possible legislative or other actions affecting REITs could adversely affect us and our stockholders.***

The rules dealing with U.S. federal income taxation are constantly under review by persons involved in the legislative process and by the IRS and the U.S. Treasury Department. Changes to tax laws (which changes may have retroactive application) could adversely affect us or our stockholders. We cannot predict whether, when, in what forms, or with what effective dates, the tax laws applicable to us or our stockholders will be changed.

***Complying with REIT requirements may cause us to forego otherwise attractive opportunities.***

To qualify as a REIT for U.S. federal income tax purposes, we must continually satisfy tests concerning, among other things, the sources of our income, the nature and diversification of our assets, the amounts we distribute to our stockholders and the ownership of our stock. In order to meet these tests, we may be required to forego attractive business or investment opportunities. Thus, compliance with the REIT requirements may adversely affect our ability to operate solely to maximize profits.

***We will pay some taxes.***

Even if we qualify as a REIT for U.S. federal income tax purposes, we will be required to pay some U.S. federal, state and local taxes on our income and property. In addition, our TRSs are fully taxable corporations that will be subject to taxes on their income and the TRSs may be limited in their ability to deduct interest payments made to us or the Operating Partnership. We also will be subject to a 100% penalty tax on certain amounts if the economic arrangements among our tenants, our TRSs and us are not comparable to similar arrangements among unrelated parties or if we receive payments for inventory or property held for sale to customers in the ordinary course of business. To the extent that we or our TRSs are required to pay U.S. federal, state or local taxes, we will have less cash available for distribution to our stockholders. As a result, our business, financial condition, results of operations, ability to make distributions to our stockholders and the trading price of our stock may be materially and adversely affected.

***The ability of the Board of Directors to revoke our REIT election without stockholder approval may cause adverse consequences to our stockholders.***

Our charter provides that the Board of Directors may revoke or otherwise terminate our REIT election, without the approval of our stockholders, if it determines that it is no longer in our best interests to continue to qualify as a REIT. If we cease to qualify as a REIT, we would become subject to U.S. federal income tax on our taxable income and we would no longer be required to distribute most of our taxable income to our stockholders, which may have adverse consequences on the total return to our stockholders.

***Our ability to invest in TRSs is limited by our qualification as a REIT, and accordingly may limit our ability to grow the business of the Design-Build and Development segment.***

In order for us to qualify as a REIT, no more than 25% of the value of our assets may consist of securities of one or more TRSs. We have jointly elected with TRS Holdings and its subsidiaries to treat such entities as TRSs. Accordingly, our ability to grow and expand the business and of TRS Holdings and its subsidiaries, absent a corresponding increase in the value of our real estate assets, will be limited by our need to continue to meet the applicable TRS limitation which could adversely affect returns to its stockholders.



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*If the aggregate value of the securities we own in its TRSs were determined to be in excess of 25% of the value of its total assets, we could fail to qualify as a REIT or be subject to a penalty tax and forced to dispose of TRS securities.*

For us to continue to qualify as a REIT, the aggregate value of all securities that we hold in our TRSs may not exceed 25% of the value of its total assets. The value of our TRS securities and our real estate assets is based on determinations of fair market value which are not subject to precise determination. We will not lose our qualification as a REIT if we were to fail the TRS limitation at the end of a quarter because of a discrepancy between the value of its TRSs and its other investments unless such discrepancy exists after the acquisition of TRS securities and is wholly or partially the result of such acquisition (including as a result of an increased investment in existing TRSs, either directly, or by way of a limited partner of the operating partnership exercising an exchange right, or we raising additional capital and contributing such capital to its operating partnership). If we were to fail to satisfy the TRS limitation at the end of a particular quarter and we were considered to have acquired TRS securities during such quarter, we would fail to qualify as a REIT unless we cured such failure by disposing of TRS securities or otherwise coming into compliance with the TRS limitation within 30 days after the close of such quarter. Based on such rules and our determination of the fair market value of our assets and the securities of our TRSs, we believe that we have satisfied and will continue to satisfy the TRS limitation. Notwithstanding the foregoing, as the fair market value of our TRS securities and real estate assets cannot be determined with absolute certainty, and we do not control when a limited partner of our operating partnership will exercise their redemption right, no assurance can be given that the IRS will not successfully challenge the valuations of our assets or that we have met and will continue to meet the TRS limitation. In addition, if the value of our real estate assets were to decrease, our ability to own TRS securities or other assets not qualifying as real estate assets will be limited and we could be forced to dispose of our TRS securities or such other assets in order to comply with REIT requirements.

*If the IRS were to successfully challenge our valuation of certain of its subsidiaries, we may fail to qualify as a REIT.*

While we believe we have properly valued the securities we holds in its TRSs, there is no guarantee that the IRS would agree with such valuation or that a court would not agree with such determination by the IRS. In the event we have improperly valued the securities we holds in its TRSs, we may fail to satisfy the 25% (20% with respect to its taxable year ended on or before December 31, 2008 and prior taxable years) asset test which may result in our failure to qualify as a REIT.

**Item 1B. Unresolved Staff Comments**

None.

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The following table contains information about our stabilized consolidated wholly-owned and joint venture properties as of December 31, 2011:

|   | September 30, | September 30, | September 30,               | September 30,     | September 30,                     | September 30,                                       |
|---|---------------|---------------|-----------------------------|-------------------|-----------------------------------|---|
|   | Location      | Ownership     | Net Rentable<br>Square Feet | Occupancy<br>Rate | Annualized<br>Rent <sup>(1)</sup> | Annualized<br>Rent Per<br>Leased<br>Square Foot (1) |
| <b>California</b>                               |               |               |                             |                   |                                   |   |
| Verdugo Hills Professional Bldg I               | Glendale      | 100.0%        | 64,056                      | 92.0%             | \$ 1,947,109                      | \$ 33.04  |
| Verdugo Hills Professional Bldg II              | Glendale      | 100.0%        | 42,906                      | 99.5%             | 1,463,303                         | 34.27   |
|   |               |               | 106,962                     | 95.0%             | 3,410,412                         | 33.56   |
| <b>Florida</b>                                  |               |               |                             |                   |                                   |   |
| Woodlands Center for Specialized<br>Medicine    | Pensacola     | 40.0%         | 75,985                      | 100.0%            | 2,614,797                         | 34.41   |
| <b>Georgia</b>                                  |               |               |                             |                   |                                   |   |
| Augusta POB I                                   | Augusta       | 100.0%        | 99,494                      | 95.1%             | 1,387,647                         | 14.66   |
| Augusta POB II                                  | Augusta       | 100.0%        | 125,634                     | 87.6%             | 2,311,621                         | 21.01   |
| Augusta POB III                                 | Augusta       | 100.0%        | 47,034                      | 100.0%            | 924,491                           | 19.66   |
| Augusta POB IV                                  | Augusta       | 100.0%        | 55,134                      | 51.7%             | 489,873                           | 17.19   |
| Summit Professional Plaza I                     | Brunswick     | 100.0%        | 33,039                      | 93.5%             | 861,470                           | 27.89   |
| Summit Professional Plaza II                    | Brunswick     | 100.0%        | 64,233                      | 96.7%             | 1,779,432                         | 28.63   |
|   |               |               | 424,568                     | 87.9%             | 7,754,534                         | 20.78   |
| <b>Indiana</b>                                  |               |               |                             |                   |                                   |   |
| Methodist Professional Center I <sup>(2)</sup>  | Indianapolis  | 100.0%        | 150,243                     | 100.0%            | 3,698,468                         | 24.62   |
| Methodist Professional Center II<br>(sub-lease) | Indianapolis  | 100.0%        | 24,080                      | 100.0%            | 679,892                           | 28.23   |
|   |               |               | 174,323                     | 100.0%            | 4,378,360                         | 25.12   |
| <b>Kentucky</b>                                 |               |               |                             |                   |                                   |   |
| OLBH Same Day Surgery Center<br>and MOB         | Ashland       | 100.0%        | 46,907                      | 100.0%            | 1,035,238                         | 22.07   |
| OLBH Parking Garage                             |               |               |                             |                   | 904,717                           |   |
|   |               |               | 46,907                      | 100.0%            | 1,939,955                         | 22.07 <sup>(3)</sup>                                |
| <b>Louisiana</b>                                |               |               |                             |                   |                                   |   |
| East Jefferson MOB                              | Metairie      | 100.0%        | 119,921                     | 96.8%             | 2,489,905                         | 21.44   |
| East Jefferson Medical Plaza                    | Metairie      | 100.0%        | 123,184                     | 100.0%            | 2,894,023                         | 23.49   |
| East Jefferson MRI                              | Metairie      | 100.0%        | 10,809                      | 100.0%            | 1,005,991                         | 93.07   |
|   |               |               | 253,914                     | 98.5%             | 6,389,919                         | 25.55   |
| <b>Minnesota</b>                                |               |               |                             |                   |                                   |   |
| Health Partners Medical & Dental<br>Clinics     | Sartell       | 100.0%        | 60,108                      | 94.9%             | 2,232,530                         | 39.12   |

**Mississippi**

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|   |                      |        |         |        |           |       |
|---|----------------------|--------|---------|--------|-----------|-------|
| University Physicians                               | Grants Ferry Flowood | 100.0% | 50,575  | 100.0% | 1,717,816 | 33.97 |
| <b>New York</b>                                     |                      |        |         |        |           |       |
| Central NY Medical Center <sup>(4)</sup>            | Syracuse             | 100.0% | 111,634 | 97.8%  | 2,871,587 | 26.31 |
| <b>North Carolina</b>                               |                      |        |         |        |           |       |
| Alamance Regional Mebane<br>Outpatient Center       | Mebane               | 35.1%  | 68,206  | 77.6%  | 1,967,685 | 37.19 |
| Barclay Downs                                       | Charlotte            | 100.0% | 38,395  | 100.0% | 713,303   | 18.58 |
| Birkdale Bldgs C, D, E and<br>Birkdale Wellness     | Huntersville         | 100.0% | 64,669  | 93.0%  | 1,372,868 | 22.83 |
| Birkdale II   | Huntersville         | 100.0% | 8,269   | 100.0% | 193,272   | 23.37 |
| Copperfield Medical Mall                            | Concord              | 100.0% | 26,000  | 100.0% | 634,655   | 24.41 |
| East Rocky Mount Kidney Center                      | Rocky Mount          | 100.0% | 8,043   | 100.0% | 163,650   | 20.35 |
| English Road Medical Center                         | Rocky Mount          | 34.5%  | 35,393  | 95.7%  | 960,002   | 28.36 |
| Gaston Professional & Ambulatory<br>Surgery Centers | Gastonia             | 100.0% | 114,956 | 100.0% | 2,819,916 | 24.53 |
| Gaston Parking                                      |                      |        |         |        | 606,141   |       |
| Gateway Medical Office Building                     | Concord              | 100.0% | 61,789  | 69.1%  | 1,123,454 | 26.30 |
| Harrisburg Family Physicians                        | Harrisburg           | 100.0% | 10,802  | 100.0% | 294,354   | 27.25 |
| Harrisburg Medical Mall                             | Harrisburg           | 100.0% | 18,360  | 100.0% | 514,742   | 28.04 |
| Lincoln/Lakemont Family Practice                    | Lincolnton           | 100.0% | 16,500  | 100.0% | 405,458   | 24.57 |
| Mallard Crossing Medical Park                       | Charlotte            | 100.0% | 52,540  | 69.0%  | 871,511   | 24.03 |
| Medical Arts Building                               | Concord              | 100.0% | 84,972  | 98.2%  | 1,966,304 | 23.57 |
| Midland Medical Park                                | Midland              | 100.0% | 14,610  | 100.0% | 449,849   | 30.79 |
| Mulberry Medical Park                               | Lenoir               | 100.0% | 24,992  | 100.0% | 511,135   | 20.45 |
| Northcross Family Physicians                        | Charlotte            | 100.0% | 8,018   | 100.0% | 239,186   | 29.83 |
| Randolph Medical Park                               | Charlotte            | 100.0% | 84,131  | 76.4%  | 1,355,528 | 21.08 |

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|  | September 30, | September 30, | September 30,            | September 30,  | September 30,                  | September 30,                              |
|--|---------------|---------------|--------------------------|----------------|--------------------------------|--|
|  | Location      | Ownership     | Net Rentable Square Feet | Occupancy Rate | Annualized Rent <sup>(1)</sup> | Annualized Rent Per Leased Square Foot (1) |
| <b>North Carolina (continued)</b>        |               |               |                          |                |                                |  |
| Rocky Mount Kidney Center                | Rocky Mount   | 100.0%        | 10,105                   | 100.0%         | 205,606                        | 20.35                                      |
| Rocky Mount Medical Park                 | Rocky Mount   | 100.0%        | 96,993                   | 100.0%         | 2,082,396                      | 21.47                                      |
| Rowan Outpatient Surgery Center          | Salisbury     | 100.0%        | 19,464                   | 100.0%         | 440,139                        | 22.61                                      |
| Weddington Internal & Pediatric Medicine | Concord       | 100.0%        | 7,750                    | 100.0%         | 204,204                        | 26.35                                      |
|  |               |               | 874,957                  | 91.1%          | 20,095,358                     | 24.46 <sup>(3)</sup>                       |
| <b>Pennsylvania</b>                      |               |               |                          |                |                                |  |
| Doylestown Health & Wellness Center      | Doylestown    | 99.0%         | 99,132                   | 97.0%          | 3,066,451                      | 31.90                                      |
| Lancaster Rehabilitation Hospital        | Lancaster     | 100.0%        | 57,508                   | 100.0%         | 1,511,065                      | 26.28                                      |
| Lancaster ASC MOB                        | Lancaster     | 80.9%         | 64,214                   | 100.0%         | 2,220,166                      | 34.57                                      |
|  |               |               | 220,854                  | 98.6%          | 6,797,682                      | 31.20                                      |
| <b>South Carolina</b>                    |               |               |                          |                |                                |  |
| 200 Andrews                              | Greenville    | 100.0%        | 25,902                   | 100.0%         | 635,812                        | 24.55                                      |
| Beaufort Medical Plaza                   | Beaufort      | 100.0%        | 59,340                   | 100.0%         | 1,387,344                      | 23.38                                      |
| Carolina Forest Medical Plaza            | Myrtle Beach  | 100.0%        | 38,902                   | 43.5%          | 547,848                        | 32.40                                      |
| Mary Black Westside Medical Office Bldg  | Spartanburg   | 100.0%        | 37,455                   | 100.0%         | 732,042                        | 19.54                                      |
| Medical Arts Center of Orangeburg        | Orangeburg    | 100.0%        | 49,324                   | 78.0%          | 674,507                        | 17.54                                      |
| Mount Pleasant Medical Office Long Point | Mt. Pleasant  | 100.0%        | 38,735                   | 65.7%          | 682,462                        | 26.82                                      |
| One Medical Park                         | Columbia      | 100.0%        | 69,840                   | 79.3%          | 1,342,602                      | 24.23                                      |
| Palmetto Health Parkridge                | Columbia      | 100.0%        | 89,451                   | 94.6%          | 2,243,493                      | 26.51                                      |
| Providence MOB I                         | Columbia      | 100.0%        | 48,500                   | 73.8%          | 715,518                        | 19.99                                      |
| Providence MOB II                        | Columbia      | 100.0%        | 23,280                   | 89.6%          | 431,925                        | 20.71                                      |
| Providence MOB III                       | Columbia      | 100.0%        | 54,417                   | 78.8%          | 750,086                        | 17.49                                      |
| River Hills Medical Plaza                | Little River  | 100.0%        | 27,566                   | 70.9%          | 639,181                        | 32.70                                      |
| Roper Medical Office Building            | Charleston    | 100.0%        | 122,784                  | 87.1%          | 2,320,567                      | 21.70                                      |
| St. Francis CMOB                         | Greenville    | 100.0%        | 45,140                   | 96.6%          | 1,189,373                      | 27.27                                      |
| St. Francis Medical Plaza (Charleston)   | Charleston    | 100.0%        | 28,734                   | 100.0%         | 824,788                        | 28.70                                      |
| St. Francis Medical Plaza (Greenville)   | Greenville    | 100.0%        | 62,724                   | 99.1%          | 1,136,605                      | 18.29                                      |
| St. Francis Outpatient Surgery Center    | Greenville    | 100.0%        | 72,491                   | 100.0%         | 2,225,464                      | 30.70                                      |
| St. Francis Professional Medical Center  | Greenville    | 100.0%        | 49,767                   | 100.0%         | 1,169,200                      | 23.49                                      |
| St. Francis Women's                      | Greenville    | 100.0%        | 57,590                   | 90.2%          | 1,066,809                      | 20.54                                      |
| Three Medical Park                       | Columbia      | 100.0%        | 88,755                   | 86.2%          | 1,805,579                      | 23.60                                      |
|  |               |               | 1,090,697                | 87.5%          | 22,521,205                     | 23.59                                      |
| <b>Tennessee</b>                         |               |               |                          |                |                                |  |
| Health Park Medical Office Building      | Chattanooga   | 100.0%        | 52,151                   | 100.0%         | 1,604,890                      | 30.77                                      |
| Medical Center Physicians Tower          | Jackson       | 50.5%         | 106,772                  | 100.0%         | 2,765,248                      | 25.90                                      |

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|                                     |                |        |           |        |               |                         |
|-------------------------------------|----------------|--------|-----------|--------|---------------|-------------------------|
| Peerless Crossing Medical Center    | Cleveland      | 100.0% | 40,506    | 100.0% | 1,033,384     | 25.51                   |
|                                     |                |        | 199,429   | 100.0% | 5,403,522     | 27.09                   |
| <b>Virginia</b>                     |                |        |           |        |               |                         |
| MRMC MOB I                          | Mechanicsville | 100.0% | 57,246    | 93.2%  | 1,471,235     | 27.58                   |
| St. Mary's MOB North (Floors 6 & 7) | Richmond       | 100.0% | 30,617    | 100.0% | 765,719       | 25.01                   |
|                                     |                |        | 87,863    | 95.6%  | 2,236,954     | 26.64                   |
| <b>Washington</b>                   |                |        |           |        |               |                         |
| Bonney Lake Medical Office Building | Bonney Lake    | 61.7%  | 55,991    | 97.1%  | 2,382,533     | 43.81                   |
| <b>Total</b>                        |                |        | 3,834,767 | 92.5%  | \$ 92,747,164 | \$ 25.73 <sup>(3)</sup> |

(1) Annualized rent is based on contractual lease revenue as of December 31, 2011.

(2) Parking revenue from an adjacent parking deck is approximately \$94,000 per month, or \$1,128,000 annualized.

(3) Excludes annualized rent of adjacent parking decks to OLBH Same Day Surgery Center and MOB and Gaston Professional Center from calculation.

(4) Parking revenue from an adjacent parking deck is approximately \$93,000 per month, or \$1,116,000 annualized.

A property is considered stabilized upon the earlier of (1) achieving intended occupancy and substantial completion of tenant improvements, or (2) completion of the fill-up period specified within the property's underwriting. Fill-up properties are newly available properties that have not achieved underwritten stabilized occupancy. At December 31, 2011, we had the following properties in fill-up:

| Property                                       | Location      | September 30, Type | September 30, Completion/ Acquired Date | September 30, Net Rentable Square Feet | September 30, Percentage Leased | September 30, Acquisition / Construction Cost | September 30, Fill-up Underwriting Date |
|--|---------------|--------------------|---|--|---------------------------------|---|---|
| St. Elizabeth Florence Medical Office Building | Florence, KY  | Acquisition        | 1Q 2011                                 | 53,833                                 | 76%                             | 6,150   | 1Q 2013                                 |
| St. Elizabeth Covington Medical Center         | Covington, KY | Acquisition        | 2Q 2011                                 | 59,794                                 | 58%                             | 12,300  | 2Q 2013                                 |
| Good Sam Medical Office Building               | Puyallup, WA  | Development        | 4Q 2011                                 | 80,651                                 | 68%                             | 27,116  | 4Q 2013                                 |
|  |               |                    |   | 194,278                                |                                 | \$ 45,566                                     |   |



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Future lease expirations by tenants by year under non-cancelable leases as of December 31, 2011, were as follows:

|              | September 30,<br>Number of<br>Leases Expiring | September 30,<br>Net Rentable<br>Square Feet | September 30,<br>Percentage of<br>Net Rentable<br>Square Feet | September 30,<br>Annualized<br>Rent | September 30,<br>Percentage of<br>Property<br>Annualized Rent | September 30,<br>Annualized Rent<br>Per Leased<br>Square Foot |
|--------------|---|--|---|-------------------------------------|---|---|
| Available    |   | 288,547                                      | 7.5%  | \$                                  |   | \$  |
| 2012         | 168   | 592,819                                      | 15.5%   | 15,076,988                          | 16.3%   | 24.41 <sup>(1)</sup>  |
| 2013         | 94  | 362,999                                      | 9.5%  | 8,602,560                           | 9.3%  | 23.70   |
| 2014         | 86  | 375,042                                      | 9.8%  | 9,516,790                           | 10.3%   | 25.38   |
| 2015         | 77  | 296,958                                      | 7.7%  | 8,127,203                           | 8.8%  | 24.32 <sup>(1)</sup>  |
| 2016         | 93  | 395,525                                      | 10.3%   | 8,867,516                           | 9.6%  | 22.42   |
| 2017         | 57  | 349,651                                      | 9.1%  | 9,259,630                           | 10.0%   | 26.48   |
| 2018         | 28  | 177,189                                      | 4.6%  | 4,356,069                           | 4.7%  | 24.58   |
| 2019         | 21  | 160,986                                      | 4.2%  | 3,621,947                           | 3.9%  | 22.50   |
| 2020         | 17  | 115,296                                      | 3.0%  | 2,727,447                           | 2.9%  | 23.66   |
| 2021         | 22  | 297,107                                      | 7.7%  | 9,030,228                           | 9.7%  | 30.39   |
| Thereafter   | 16  | 422,648                                      | 11.0%   | 13,560,786                          | 14.6%   | 32.09   |
| <b>Total</b> | <b>679</b>                                    | <b>3,834,767</b>                             | <b>100.0%</b>   | <b>\$ 92,747,164</b>                | <b>100.0%</b>   | <b>\$ 25.73<sup>(1)</sup></b>                                 |

<sup>(1)</sup> Excludes annualized rent of adjacent parking decks to OLBH Same Day Surgery Center and MOB and Gaston Professional Center from calculation.

No tenant occupied 10% or more of our net rentable square feet at our properties.

**Item 3. Legal Proceedings**

On December 29, 2011, a complaint was filed in the Superior Court for State of North Carolina, Mecklenburg County, under the caption, *Sesholtz v. Braun, et al.*, Case No. 11 CVS 23162, against us, our directors and Ventas on behalf of a putative class of similarly situated investors, alleging that the our board of directors breached its fiduciary duties regarding the Company Merger and that Ventas aided and abetted the alleged breach of fiduciary duties. Beginning on January 4, 2012, six other putative class action suits were filed in the Maryland Circuit Court for Baltimore City against the same defendants and alleging similar breach of fiduciary duty and aiding and abetting claims, although certain complaints also named our Operating Partnership, MergerSub and OP MergerSub as defendants. On January 27, 2012, we also received a letter from an entity purporting to be a stockholder demanding that the board terminate the Company Merger and the sale of the Erdman business and that the board conduct an investigation into the Company Merger and the sale of the Erdman business. The letter also made a request for access to certain books and records of the company related to the Company Merger and the sale of the Erdman business. The cases pending in Maryland were consolidated by the Court on January 31, 2012 under the caption, *In re Cogdell Spencer Inc. Shareholder Litigation*, Case No. 24-C-12-000053. On February 3, 2012, the plaintiff in the North Carolina action filed an amended complaint, and on February 9, 2012, the plaintiffs in the Maryland action filed an amended complaint, including the class and derivative actions. All of the pending cases ask that the Company Merger be enjoined and seek other unspecified monetary relief. On February 21, 2012, defendants moved to dismiss the amended complaint.

On February 29, 2012, we entered into a memorandum of understanding with the plaintiffs in the Maryland and North Carolina cases regarding the settlement of the pending claims. Pursuant to the terms of the proposed settlement, we agreed to make certain supplemental disclosures related to the proposed Company Merger. The memorandum of understanding contemplates that the parties will enter into a settlement agreement after a period of confirmatory discovery, which will be subject to customary conditions, including court approval following notice to our stockholders. In the event the parties enter into a settlement agreement, a hearing will be scheduled in which the Maryland Court will consider the fairness, reasonableness, and adequacy of the settlement. If the settlement is finally approved by the Court, it will resolve and release all claims in all actions that were or could have been brought challenging any aspect of the proposed Merger, the Merger Agreement, and any disclosure made in connection therewith, among other claims, pursuant to terms that will be disclosed to stockholders prior to final approval of the settlement.

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In addition, in connection with the settlement, the parties contemplate that plaintiffs' counsel will file a petition in the Maryland Court for an award of attorneys' fees and expenses to be paid by or on behalf of Defendants, which Defendants may oppose. Defendants will pay or cause to be paid any attorneys' fees and expenses awarded by the Maryland Court. There can be no assurance that the parties will ultimately enter into a settlement agreement or that the Maryland Court will approve the settlement even if the parties were to enter into a settlement agreement. In such event, the proposed settlement as contemplated by the memorandum of understanding may be terminated.

One of the conditions to the closing of the Mergers is that no decree, ruling, judgment, decision, order or injunction shall have been entered by any court of competent jurisdiction that has the effect of prohibiting or restraining the completion of the Mergers. If for any reason the cases are not settled and if any of the plaintiffs are successful in obtaining an injunction prohibiting the defendants from completing the Mergers, then such injunction may prevent the Mergers from becoming effective or from becoming effective within the expected timeframe. [In addition, if any suit, action or proceeding before any court or other governmental entity shall have been instituted or shall be pending, with respect to certain matters disclosed in the merger agreement disclosure schedule, where an unfavorable outcome in such suit, action or proceeding would, in the sole and absolute discretion of Ventas, adversely affect the anticipated business or economic benefits to Ventas and its affiliates of the transactions contemplated by the merger agreement, the Mergers will not be completed. If completion of the Mergers is prevented or delayed, it could result in substantial costs to us. In addition, we could incur costs associated with the indemnification of our directors and officers.

#### **Item 4. *Mine Safety Disclosures***

Not applicable.

**Table of Contents****PART II****Item 5. Market for Registrant's Common Equity and Related Stockholder Matters and Issuer Purchases of Equity Securities****Market Information**

Our common stock trades on the NYSE under the symbol CSA. The following table sets forth, for the period indicated, the high and low sales price for our common stock as reported by the NYSE and the per share dividends declared:

| Period         | September 30, | September 30, | September 30,      |
|----------------|---------------|---------------|--------------------|
|                | High          | Low           | Dividends Declared |
| <b>2010</b>    |               |               |                    |
| First Quarter  | \$ 7.82       | \$ 5.62       | \$ 0.10            |
| Second Quarter | \$ 8.52       | \$ 2.93       | \$ 0.10            |
| Third Quarter  | \$ 7.64       | \$ 6.00       | \$ 0.10            |
| Fourth Quarter | \$ 7.02       | \$ 5.67       | \$ 0.10            |
| <b>2011</b>    |               |               |                    |
| First Quarter  | \$ 6.71       | \$ 5.57       | \$ 0.10            |
| Second Quarter | \$ 6.27       | \$ 5.71       | \$ 0.10            |
| Third Quarter  | \$ 6.31       | \$ 3.58       | \$ 0.10            |
| Fourth Quarter | \$ 4.31       | \$ 3.18       | \$ 0.10            |

On March 8, 2012, the closing price of our common stock as reported by the NYSE was \$4.25. At March 8, 2012, we had 129 holders of record of our common stock.

Holders of shares of common stock are entitled to receive distributions when and if declared by the Board of Directors out of any assets legally available for that purpose. As a REIT, we are required to distribute at least 90% of our REIT taxable income (computed without regard to the dividends paid deduction or net capital gains) to shareholders annually to maintain our REIT qualification for U.S. federal income tax purposes. Our Credit Facility includes limitations on our ability to make distributions to our stockholders, subject to complying with our REIT requirements.

During 2011, we paid four quarterly dividends of \$0.10 per share, totaling \$0.40 per share for 2011. We funded the dividend payments for 2011 through a combination of funds from operations and borrowings under the Credit Facility. We use borrowings available under the Credit Facility to fund dividend payments when our cash flows from operations is insufficient to meet the dividend payments. The dividends of \$0.40 per share are classified for income tax purposes as 45.0% taxable ordinary dividend, 5.0% capital gain (2.5% long term capital gain and 2.5% unrecaptured Section 1250 gain) and 50.0% return of capital.

We have reserved 2.5 million shares of common stock for issuance under our 2005 and 2010 long-term incentive plans of which 1.0 million remained available for issuance as of December 31, 2011.

As of December 31, 2011, there were 58.6 million OP units outstanding, of which 51.2 million, or 87.4%, were owned by us and 7.4 million, or 12.6%, were owned by other partners (including certain directors and members of executive management).

**Table of Contents****Stockholder Return Performance**

The following graph compares the cumulative total return on our common stock with that of the Standard and Poor's 500 Stock Index ( S&P 500 Index ) and the National Association of Real Estate Investment Trusts Equity Index ( NAREIT Equity Index ) from January 1, 2007 through December 31, 2011. The stock price performance graph assumes that an investor invested \$100 in each of us and the indices, and the reinvestment of any dividends. The comparisons in the graph are provided in accordance with the SEC disclosure requirements and are not intended to forecast or be indicative of the future performance of our shares of common stock.

| Index                | September 30, | September 30, | September 30, | September 30, | September 30, | September 30, |
|----------------------|---------------|---------------|---------------|---------------|---------------|---------------|
|                      | 12/31/06      | 12/31/07      | 12/31/08      | 12/31/09      | 12/31/10      | 12/31/11      |
| Cogdell Spencer Inc. | 100.00        | 79.93         | 49.88         | 34.41         | 37.40         | 29.81         |
| NAREIT Equity        | 100.00        | 84.31         | 52.50         | 67.20         | 85.98         | 93.11         |
| S&P 500              | 100.00        | 105.49        | 66.46         | 84.05         | 96.71         | 98.76         |

Except to the extent that we specifically incorporate this information by reference, the foregoing Stockholder Return Performance information shall not be deemed incorporated by reference by any general statement incorporating by reference this Annual Report on Form 10-K into any filing under (the Securities Act), or under the Securities Exchange Act of 1934, as amended. This information shall not otherwise be deemed filed under such acts.

**Unregistered Sales of Equity Securities and Use of Proceeds**

As disclosed in our Current Report on Form 8-K, filed with the SEC on September 24, 2010, in September 2010, in connection with the employment of Raymond W. Braun as our Chief Executive Officer and President, we sold 74,516 shares of common stock to Mr. Braun at a price per share equal to \$6.71.

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On October 20, 2009, the final escrow release related to our acquisition of MEA Holdings, Inc. ( MEA ) in 2008 (the MEA transaction ) occurred and in connection therewith, the Operating Partnership issued an aggregate of 331,812 of OP units, having an aggregate value of \$1.6 million, at the time of issuance, to the MEA sellers. These OP units were issued in exchange for ownership interests in MEA as part of a private placement transaction under Section 4(2) of the Securities Act and the rules and regulations promulgated thereunder. These OP units are redeemable for the cash equivalent thereof at a time one year after the date of issuance, or, at our option, exchangeable into shares of our common stock on a one-for-one basis. No underwriters were used in connection with this issuance of these OP units.

**Issuer Purchases of Equity Securities**

We did not repurchase any shares of common stock during the quarter ended December 31, 2011.

**Table of Contents****Item 6. Selected Financial Data**

The following table sets forth our selected consolidated financial and operating data on an historical basis. The following table should be read in conjunction with the Financial Statements and notes thereto included in Item 8, Financial Statements and Supplementary Data and Item 7, Management's Discussion and Analysis of Financial Condition and Results of Operations in this Annual Report on Form 10-K.

|   | September 30,<br>2011 | September 30,<br>2010 | September 30,<br>2009 | September 30,<br>2008 | September 30,<br>2007 |
|---|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| <b>For the year ended December 31,</b>  |                       |                       |                       |                       |                       |
| <b>(In thousand, except per share amounts)</b>  |                       |                       |                       |                       |                       |
| <b>Statements of Operations Data:</b>   |                       |                       |                       |                       |                       |
| Rental revenue  | \$ 96,253             | \$ 87,803             | \$ 79,486             | \$ 77,421             | \$ 62,611             |
| Design-Build contract revenue and other sales   | 79,019                | 91,256                | 143,416               | 253,596               |                       |
| Total revenues  | 178,537               | 182,417               | 229,601               | 335,362               | 66,403                |
| Property operating and management expenses  | 38,861                | 33,664                | 31,810                | 31,065                | 25,405                |
| Costs related to design-build contract revenue and other sales  | 69,704                | 72,001                | 113,961               | 214,019               |                       |
| Selling, general, and administrative expenses   | 24,841                | 30,411                | 32,285                | 30,215                | 7,365                 |
| Impairment charges  | 26,885                | 127,041               | 120,920               |                       |                       |
| Income (loss) from continuing operations before other income (expense) and income tax benefit (expense) | (15,046)              | (113,541)             | (103,877)             | 15,184                | 6,021                 |
| Interest expense  | (21,287)              | (21,994)              | (21,711)              | (25,017)              | (15,818)              |
| Loss from continuing operations   | (35,099)              | (118,886)             | (100,435)             | (7,645)               | (8,821)               |
| Net loss  | (35,099)              | (118,616)             | (101,962)             | (7,857)               | (8,994)               |
| Net loss attributable to Cogdell Spencer Inc. common shareholders                                       | (36,961)              | (104,089)             | (69,728)              | (5,773)               | (6,341)               |
| <b>Per Share basic and diluted:</b>   |                       |                       |                       |                       |                       |
| Declared dividend   | \$ 0.40               | \$ 0.40               | \$ 0.525              | \$ 1.275              | \$ 1.40               |
| Loss from continuing operations attributable to Cogdell Spencer Inc. common shareholders                | \$ (0.72)             | \$ (2.20)             | \$ (2.10)             | \$ (0.36)             | \$ (0.56)             |
| Income (loss) from discontinued operations attributable to Cogdell Spencer Inc. common shareholders     | \$                    | \$                    | \$ (0.04)             | \$ (0.01)             | \$ (0.01)             |
| Net loss per share attributable to Cogdell Spencer Inc. common shareholders                             | \$ (0.72)             | \$ (2.20)             | \$ (2.14)             | \$ (0.37)             | \$ (0.57)             |
| Weighted average shares basic and diluted   | 51,068                | 47,456                | 32,655                | 15,770                | 11,056                |
| Weighted average shares and OP units basic and diluted  | 58,496                | 55,206                | 40,616                | 24,098                | 15,637                |
| <b>Selected Balance Sheet Data (as of the end of the period):</b>                                       |                       |                       |                       |                       |                       |
| <b>Assets:</b>  |                       |                       |                       |                       |                       |
| Real estate properties, net   | \$ 606,561            | \$ 537,393            | \$ 511,215            | \$ 474,260            | \$ 451,284            |
| Other assets, net   | 85,543                | 95,547                | 241,448               | 425,830               | 54,953                |
| Total assets  | \$ 692,104            | \$ 632,940            | \$ 752,663            | \$ 900,090            | \$ 506,237            |
| <b>Liabilities and equity:</b>  |                       |                       |                       |                       |                       |
| Mortgages, credit facility, and term debt   | \$ 453,634            | \$ 362,303            | \$ 410,892            | \$ 462,948            | \$ 314,314            |
| Other liabilities, net  | 76,210                | 53,117                | 93,991                | 154,148               | 29,667                |
| Equity  | 162,260               | 217,520               | 247,780               | 282,994               | 162,256               |

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|                              |    |         |    |         |    |         |    |         |    |         |
|------------------------------|----|---------|----|---------|----|---------|----|---------|----|---------|
| Total liabilities and equity | \$ | 692,104 | \$ | 632,940 | \$ | 752,663 | \$ | 900,090 | \$ | 506,237 |
|------------------------------|----|---------|----|---------|----|---------|----|---------|----|---------|

**Cash Flow Data:**

|   |    |          |    |          |    |          |    |           |    |           |
|---|----|----------|----|----------|----|----------|----|-----------|----|-----------|
| Net cash provided by operating activities | \$ | 31,897   | \$ | 7,496    | \$ | 45,443   | \$ | 24,740    | \$ | 23,796    |
| Net cash used in investing activities     | \$ | (96,780) | \$ | (44,214) | \$ | (54,213) | \$ | (194,277) | \$ | (117,298) |
| Net cash provided by financing activities | \$ | 69,409   | \$ | 23,007   | \$ | 16       | \$ | 200,650   | \$ | 96,055    |

**Other Data:**

|   |    |          |    |          |    |          |    |        |    |        |
|---|----|----------|----|----------|----|----------|----|--------|----|--------|
| Funds from operations <sup>(1)</sup>          | \$ | (12,273) | \$ | (91,939) | \$ | (73,897) | \$ | 21,380 | \$ | 18,259 |
| Funds from operations modified <sup>(1)</sup> | \$ | (11,348) | \$ | (90,447) | \$ | (71,132) | \$ | 29,363 | \$ | 18,362 |
| FFOM, net of non-recurring items              | \$ | 16,498   | \$ | 28,818   | \$ | 31,229   | \$ | 30,675 | \$ | 18,362 |

- (1) FFO is a supplemental non-GAAP financial measure used by the real estate industry to measure the operating performance of real estate companies. FFOM adds back to traditionally defined FFO non-cash amortization of non-real estate related intangible assets associated with purchase accounting. We present FFO and FFOM because we consider them important supplemental measures of operational performance. We believe FFO is frequently used by securities analysts, investors and other interested parties in the evaluation of REITs, many of which present FFO when reporting their results. We believe that FFOM allows securities analysts, investors and other interested parties to evaluate current period results to results prior to the acquisition of MEA Holdings, Inc. FFO and FFOM are intended to exclude GAAP historical cost depreciation and amortization of real estate and related assets, which assumes that the value of real estate assets diminishes ratably over time, and impairment of depreciable real estate assets. Historically, however, real estate values have risen or fallen with market conditions. Because FFO and FFOM excludes depreciation and amortization unique to real estate, gains and losses from property dispositions and extraordinary items, they provide performance measures that, when compared year over year, reflect the impact to operations from trends in occupancy rates, rental rates, operating costs, development activities and interest costs, providing a perspective not immediately apparent from net income. We compute FFO in accordance with standards established by the Board of Governors of NAREIT in its March 1995 White Paper (as amended in

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November 1999 and April 2002), which may differ from the methodology for calculating FFO and FFOM utilized by other equity REITs and, accordingly, may not be comparable to such other REITs. We adjust the NAREIT definition to add back noncontrolling interests in consolidated real estate partnerships before real estate related depreciation and amortization, acquisition-related expenses, and deduct dividends on preferred stock. Further, FFO and FFOM do not represent amounts available for management's discretionary use because of needed capital replacement or expansion, debt service obligations, or other commitments and uncertainties. FFO and FFOM should not be considered as an alternative to net income (loss) (computed in accordance with GAAP) as an indicator of our performance, nor are they indicative of funds available to fund our cash needs, including our ability to pay dividends or make distributions.

The following table presents the reconciliation of FFO and FFOM to net loss, which is the most directly comparable GAAP measure to FFO and FFOM (in thousands):

|  | September 30,<br>2011 | September 30,<br>2010 | September 30,<br>2009 | September 30,<br>2008 | September 30,<br>2007 |
|--|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| <b>Funds from operations:</b>  |                       |                       |                       |                       |                       |
| Net loss   | \$ (35,099)           | \$ (118,616)          | \$ (101,962)          | \$ (7,857)            | \$ (8,994)            |
| Real estate related depreciation and amortization <sup>(1)</sup>   | 31,095                | 29,177                | 29,114                | 30,583                | 27,453                |
| Noncontrolling interests in real estate partnerships, before real estate related depreciation and amortization | (2,544)               | (2,031)               | (1,049)               | (1,346)               | (200)                 |
| Acquisition-related expenses   | 523                   |                       |                       |                       |                       |
| Gain on sale of real estate properties   |                       | (264)                 |                       |                       |                       |
| Dividends on preferred stock   | (6,248)               | (208)                 |                       |                       |                       |
| Funds from operations  | (12,273)              | (91,942)              | (73,897)              | 21,380                | 18,259                |
| Amortization of intangibles related to purchase accounting, net of income tax benefit                          | 925                   | 1,495                 | 2,765                 | 7,983                 | 103                   |
| <b>Funds from operations modified</b>  | <b>\$ (11,348)</b>    | <b>\$ (90,447)</b>    | <b>\$ (71,132)</b>    | <b>\$ 29,363</b>      | <b>\$ 18,362</b>      |
| <b>Other excluded items:</b>   |                       |                       |                       |                       |                       |
| Long-lived and intangible asset impairment charges, net of tax benefit   | \$ 26,885             | \$ 104,674            | \$ 101,746            | \$                    | \$                    |
| Litigation loss provision  | 1,461                 |                       |                       |                       |                       |
| Litigation gain settlement   | (500)                 |                       |                       |                       |                       |
| Tax valuation allowance  |                       | 10,553                |                       |                       |                       |
| Mr. Spencer's retirement compensation expense, net of tax benefit  |                       | 2,545                 |                       |                       |                       |
| Mr. Cogdell's employment non-renewal compensation expense  |                       | 1,493                 |                       |                       |                       |
| Gain on settlement from MEA Holdings, Inc. transaction   |                       |                       | (4,905)               |                       |                       |
| Impairment of real estate property held for sale   |                       |                       | 1,359                 |                       |                       |
| Strategic planning professional fees   |                       |                       | 2,641                 |                       |                       |
| Debt extinguishment and interest rate derivative expense, net of tax benefit                                   |                       |                       | 1,520                 |                       |                       |
| Restructuring and severance charges, net of tax benefit  |                       |                       |                       | 1,312                 |                       |
| Impact of other excluded items   | \$ 27,846             | \$ 119,265            | \$ 102,361            | \$ 1,312              | \$                    |
| FFOM, excluding other excluded items   | \$ 16,498             | \$ 28,818             | \$ 31,229             | \$ 30,675             | \$ 18,362             |



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- (1) Real estate depreciation and amortization consists of depreciation and amortization from wholly-owned real estate properties and our share of real estate depreciation and amortization from consolidated and unconsolidated real estate partnerships.

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**Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations**

*The following discussion should be read in conjunction with the Cogdell Spencer Inc. Consolidated Financial Statements and Notes thereto appearing elsewhere in this Annual Report on Form 10-K. We make statements in this section that are forward-looking statements within the meaning of the federal securities laws. For a complete discussion of forward-looking statements, see the section in this Annual Report on Form 10-K entitled "Statements Regarding Forward-Looking Information." Certain risk factors may cause actual results, performance or achievements to differ materially from those expressed or implied by the following discussion. For a discussion of such risk factors, see the section in this Annual Report on Form 10-K entitled "Risk Factors."*

**Overview**

We are a fully-integrated, self-administered, and self-managed REIT that invests in healthcare facilities, including medical offices and ambulatory surgery and diagnostic centers. We focus on the ownership, delivery, acquisition, and management of strategically located healthcare facilities in the United States of America. We have been built around understanding and addressing the specialized real estate needs of the healthcare industry and providing services from strategic planning to long-term property ownership and management. Integrated delivery service offerings include strategic planning, design, construction, development and project management services for properties owned by us or by third parties.

We are building a national portfolio of healthcare properties primarily located on hospital campuses. Since our initial public offering in 2005, we have grown through acquisitions and facility development to encompass a national footprint, including seven regional offices located throughout the United States (Atlanta, Charlotte, Dallas, Denver, Madison, Seattle, and Washington, D.C.) and 27 property management offices. Client relationships and advance planning services give us the ability to be included in the initial project discussions that can lead to ownership and investment in healthcare properties.

In 2011, we acquired three buildings totaling approximately 213,000 net rentable square feet for approximately \$41.0 million. These acquisitions resulted in two new hospital relationships. St. Elizabeth Florence Medical Office Building, located in Florence, Kentucky, and St. Elizabeth Covington Medical Center, located in Covington, Kentucky, are located on campus with the St. Elizabeth Healthcare hospital system. Doylestown Health & Wellness Center, located in Doylestown, Pennsylvania, is located on campus with Doylestown Hospital.

In 2011, we completed construction on two development projects for which we provided both development and design-build (architectural, engineering, and construction) services. Bonney Lake Medical Office Building, located in Bonney Lake, WA, is a three story medical office building totaling 55,991 rentable square feet and is 97.1% leased. Good Sam Medical Office Building, located in Puyallup, Washington, is a four story medical office building totaling 80,651 rentable square feet and is 67.7% leased. At December 31, 2011, we have one investment project under construction in Duluth, Minnesota, totaling approximately 176,000 net rentable square feet with a total estimated investment of approximately \$27.8 million. This project is scheduled to be completed before the end of 2012.

In 2010, we completed construction on three wholly-owned medical office buildings located in Tennessee, Minnesota, and Mississippi for a combined total of \$50.7 million and approximately 217,000 net rentable square feet. For the Minnesota and Mississippi projects, we provided both development and design-build (architectural, engineering, and construction) services. We also acquired an outpatient surgery center in South Carolina for \$16.6 million as a result of a client relationship. This 72,491 net rentable square foot facility is located on campus and is 100% leased by the hospital.

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As of December 31, 2011, we owned and/or managed 118 medical office buildings and healthcare related facilities, totaling approximately 6.2 million net rentable square feet. Our portfolio consists of:

|   | September 30,<br>Number of<br>Properties | September 30,<br>Net Rentable<br>Square Feet<br>(in millions) | September 30,<br>Percentage<br>Leased |
|---|--|---|---------------------------------------|
| <b>Stabilized properties:</b>           |  |   |                                       |
| Wholly-owned                            | 61                                       | 3.33  |                                       |
| Consolidated joint ventures             | 7  | 0.51  |                                       |
| Total stabilized properties             | 68                                       | 3.84  | 92.5%                                 |
| Fill-up properties <sup>(1)</sup> :     | 3  | 0.19  | 67.0%                                 |
| Total consolidated properties           | 71                                       | 4.03  |                                       |
| Unconsolidated joint venture properties | 3  | 0.21  |                                       |
| Properties managed for third parties    | 44                                       | 1.99  |                                       |
| <b>Total portfolio</b>                  | <b>118</b>                               | <b>6.23</b>   |                                       |

<sup>(1)</sup> Fill-up properties are newly available properties that have not achieved underwritten stabilized occupancy.

At December 31, 2011, 73.8% of our wholly-owned and consolidated properties were located on hospital campuses and an additional 11.5% were located off-campus, but were hospital anchored. We believe that our on-campus and hospital anchored assets occupy a premier franchise location in relation to local hospitals, providing our properties with a distinct competitive advantage over alternative medical office space in an area. As of December 31, 2011, our 68 stabilized properties had a weighted average remaining lease term of approximately 5.8 years.

We derive the majority of our revenues from two main sources: 1) rents received from tenants under leases in healthcare facilities, and 2) revenue earned from design-build construction contracts and development contracts. To a lesser degree, we derive revenue from consulting and property management agreements.

We expect that rental revenue will remain stable due to multi-year, non-cancellable leases with annual rental increases based on the Consumer Price Index (CPI). We have been able to maintain a high occupancy rate for our stabilized, consolidated wholly-owned and joint venture properties due to our focus on customer relationships. For the year ended December 31, 2011, we renewed 88.5% of our scheduled lease expirations. Generally, our property operating revenues and expenses have remained consistent over time, except for growth due to property developments and property acquisitions. As of December 31, 2011, leases representing 15.5% of our net rentable square feet will expire in 2012, 9.5% in 2013 and 9.8% in 2014. These expirations would account for 16.3%, 9.3% and 10.3% of our annualized rent, respectively.

The demand for our design-build and development services has been, and will likely continue to be, cyclical in nature. Financial results can be affected by the amount and timing of capital spending by healthcare systems and providers, the demand for design-build and development services in the healthcare facilities market, the availability of construction level financing, changes in our market share, and weather at the construction sites. In periods of adverse economic conditions, our design-build and development customers may be unwilling or unable to make capital expenditures and they may be unable to obtain debt or equity financings for projects. As a result, customers may defer projects to a later date, which could reduce our revenues.

In March 2011, we amended and restated our secured revolving credit facility. See Note 10 in the accompanying Notes to Consolidated Financial Statements in this Form 10-K.

In August 2011, we closed on an \$80.8 million Term Loan Facility and used the proceeds to refinance \$58.6 million of certain mortgages that mature in 2011 and 2012 and to pay down \$22.2 million of our \$200 million secured Credit Facility. See Note 10 in the accompanying Notes to Consolidated Financial Statements in this Form 10-K.

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We review the value of real property, goodwill, and intangible assets on an annual basis and when circumstances indicate a potential impairment may exist. For the year ended December 31, 2011, we recorded an impairment charge of \$26.9 million related to the proposed sale of the Design-Build and Development segment. This charge reduced the carrying value of goodwill, fixed assets, and customer relationships by \$22.9 million, \$3.6 million, and \$0.4 million, respectively. These are non-cash charges. See Note 9 in the accompanying Notes to Consolidated Financial Statements in this Form 10-K.

In January 2012, Mr. David J. Lubar resigned from our Company's Board of Directors.

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**Proposed Merger with Ventas; Sale of Erdman Business**

***Merger with Ventas***

On December 24, 2011, we entered into an Agreement and Plan of Merger (the "merger agreement") with our Operating Partnership, Ventas, Inc., a Delaware corporation ("Ventas"), TH Merger Corp, Inc., a Maryland corporation and Ventas wholly-owned subsidiary ("MergerSub"), and TH Merger Sub, LLC, a Delaware limited liability company and Ventas wholly owned subsidiary ("OP MergerSub"), and, together with Ventas and MergerSub, the "Purchaser Parties"). The merger agreement provides for the merger of us with MergerSub (the "Company Merger") and the merger of OP MergerSub with and into the OP (the "Partnership Merger" and, together with the Company Merger, the "Mergers").

At the effective time of the Company Merger, each share of our common stock that remains outstanding immediately prior to the effective time (other than shares of our common stock owned directly or indirectly, by us or any of our subsidiaries, Ventas, or MergerSub or any other direct or indirect subsidiary of Ventas (which shall be cancelled and retired and shall cease to exist and for which no consideration shall be delivered)) will be automatically cancelled and converted into the right to receive \$4.25 in cash (the "Per Share Consideration"), without interest.

At the effective time of the Company Merger, each share of our Series A Preferred Stock that remains outstanding immediately prior to the effective time (other than shares of Series A Preferred Stock owned, directly or indirectly, by us or any of our subsidiaries, Ventas, or MergerSub or any other direct or indirect subsidiary of Ventas (which shall be cancelled and retired and shall cease to exist and for which no consideration shall be delivered)) will be automatically cancelled and converted into the right to receive an amount in cash equal to \$25.00, plus all accrued and unpaid dividends thereon through and including the closing date of the Company Merger (the "Per Share Preferred Consideration"), without interest.

At the effective time of the Partnership Merger, each Operating Partnership unit ("OP Unit") issued and outstanding immediately prior to the effective time (other than OP Units owned directly or indirectly, by us or any of our wholly owned subsidiaries) will be automatically cancelled and converted into the right to receive Per Share Consideration.

Completion of the Company Merger was subject to the approval of the affirmative vote of the holders of not less than a majority of the outstanding shares of our common stock, which we received at a special stockholders meeting held on March 9, 2012.

Completion of the merger is also subject to certain other conditions, including completion of the transactions contemplated by the Stock Purchase Agreement, dated December 24, 2011 (the "Erdman purchase agreement") by and between Cogdell Spencer TRS Holdings, LLC ("TRS Holdings") and Madison DB Acquisition, LLC ("Madison DB") pursuant to which Madison DB will acquire all of the shares of our subsidiary, MEA Holdings, Inc. ("MEA"), which, together with its subsidiaries, engage in design-build and related development business under the Marshall Erdman name (the "Erdman business").

The merger agreement contains certain termination rights for us and Ventas. Upon termination of the merger agreement under specified circumstances, the parties may be required to pay the other party a termination fee. If we are required to pay a termination fee as a result of our entering into an alternative acquisition agreement or completing an alternative transaction, the amount of the termination fee is \$15 million plus reimbursement to Ventas for all reasonable out-of-pocket fees and expenses incurred by or on behalf of Ventas in an amount equal to \$5 million. The merger agreement also provides that Ventas will be required to pay us a termination fee of \$15 million plus expense reimbursement equal to \$5 million if the merger agreement is terminated under certain circumstances because Ventas fails to complete the Company Merger or otherwise breaches its obligations under the merger agreement. In certain other termination scenarios, we may be obligated to reimburse Ventas for its reasonable out-of-pocket fees and expenses equal to \$5 million, but will not be required to pay Ventas the termination fee.

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### ***Sale of Erdman Business***

As discussed above, on December 24, 2011, TRS Holdings entered into the Erdman purchase agreement with Madison DB pursuant to which Madison DB will acquire the Erdman business. TRS Holdings will, prior to closing, contribute \$11,720,000 (subject to certain adjustments) to MEA. TRS Holdings also has extinguished certain intercompany indebtedness of MEA. At closing, Madison DB will pay \$1.00 to TRS Holdings and will contribute \$11,720,000 (subject to certain adjustments) in working capital to MEA. Consummation of the transactions contemplated by the Erdman purchase agreement is subject to customary closing conditions, including satisfaction of all conditions to closing of the Mergers.

Mr. David Lubar, one of our former directors, is a principal of the investment fund that is providing Madison DB with its required equity funding. Mr. Lubar was excluded from, and did not participate in, deliberations of our Board of Directors regarding the merger agreement or the Erdman purchase agreement.

Our stockholders will not receive any consideration from the sale of MEA pursuant to the Erdman purchase agreement distinct from the consideration received pursuant to the merger agreement.

Assuming all necessary conditions are satisfied, which cannot be guaranteed, the Mergers are expected to close in the second quarter of 2012.

### **Critical Accounting Estimates**

Our discussion and analysis of financial condition and results of operations are based upon our condensed consolidated financial statements, which have been prepared on the accrual basis of accounting in conformity with GAAP. All significant intercompany balances and transactions have been eliminated in consolidation.

The preparation of financial statements in conformity with GAAP requires our management to make estimates and assumptions that affect the reported amounts of assets and liabilities at the date of the financial statements and the reported amount of revenues and expenses in the reporting period. Our actual results may differ from these estimates. We have provided a summary of our significant accounting policies in Note 2 in the Notes to Consolidated Financial Statements included in our Annual Report on Form 10-K for the year ended December 31, 2011. Critical accounting policies are those judged to involve accounting estimates or assumptions that may be material due to the levels of subjectivity and judgment necessary to account for uncertain matters or susceptibility of such matters to change. Other companies in similar businesses may utilize different estimation policies and methodologies, which may impact the comparability of our results of operations and financial condition to those companies.

### ***Acquisition of Real Estate***

The price we pay to acquire a property is impacted by many factors, including the condition of the buildings and improvements, the occupancy of the building, the existence of above and below market tenant leases, the creditworthiness of the tenants, favorable or unfavorable financing, above or below market ground leases and numerous other factors. Accordingly, we are required to make subjective assessments to allocate the purchase price paid to acquire investments in real estate among the assets acquired and liabilities assumed based on our estimate of the fair values of such assets and liabilities. This includes determining the value of the buildings and improvements, land, any ground leases, tenant improvements, in-place tenant leases, tenant relationships, the value (or negative value) of above (or below) market leases and any debt assumed from the seller or loans made by the seller to us. Each of these estimates requires significant judgment and some of the estimates involve complex calculations. Our calculation methodology is summarized in Note 2 in the Notes to Consolidated Financial Statements included in our Annual Report on Form 10-K for the year ended December 31, 2011. These allocation assessments have a direct impact on our results of operations. If we were to allocate more value to land, there would be no depreciation with respect to such amount. Similarly, if we were to allocate more value to the buildings as opposed to allocating to the value of tenant leases, this amount would be recognized as an expense over a much longer period of time since the amounts allocated to buildings are depreciated over the estimated lives of the buildings whereas amounts allocated to tenant leases are amortized over the terms

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of the leases. Additionally, the amortization of value (or negative value) assigned to above (or below) market rate leases is recorded as an adjustment to rental revenue as compared to amortization of the value of in-place leases and tenant relationships, which is included in depreciation and amortization in our consolidated statements of operations.

***Useful Lives of Assets***

We are required to make subjective assessments as to the useful lives of our properties and intangible assets for purposes of determining the amount of depreciation and amortization to record on an annual basis with respect to our assets. These assessments have a direct impact on our net income (loss) because if we were to shorten the expected useful lives, then we would depreciate or amortize such assets over fewer years, resulting in more depreciation or amortization expense on an annual basis.

***Asset Impairment Valuation***

We review the carrying value of our properties, investments in real estate partnerships, and amortizing intangible assets annually and when circumstances, such as adverse market conditions, indicate that a potential impairment may exist. Typically, we base our review on an estimate of the future cash flows (excluding interest charges) expected to result from the asset's use and potential eventual disposition. We consider factors such as future operating income, trends and prospects, as well as the effects of leasing demand, competition and other factors. If our evaluation indicates that we may be unable to recover the carrying value of an investment, an impairment loss is recorded to the extent that the carrying value exceeds the estimated fair value of the asset. These losses have a direct impact on our net income (loss) because recording an impairment loss results in an immediate negative adjustment to operating results. The evaluation of anticipated cash flows is highly subjective and is based in part on assumptions regarding future sales, backlog, occupancy, rental rates and capital requirements that could differ materially from actual results in future periods. Because cash flows on properties considered to be long-lived assets to be held and used are considered on an undiscounted basis to determine whether an asset has been impaired, our strategy of holding properties over the long-term directly decreases the likelihood of recording an impairment loss for properties. If our strategy changes or market conditions otherwise dictate an earlier sale date, an impairment loss may be recognized and such loss could be material. If we determine that impairment has occurred, the affected assets must be reduced to their fair value. We estimate the fair value of rental properties utilizing a discounted cash flow analysis that includes projections of future revenues, expenses and capital improvement costs, similar to the income approach that is commonly utilized by appraisers.

We review the value of goodwill using an income approach and market approach on an annual basis and when circumstances indicate a potential impairment may exist. Our methodology to review goodwill impairment, which includes a significant amount of judgment and estimates, provides a reasonable basis to determine whether impairment has occurred. However, many of the factors employed in determining whether or not goodwill is impaired are outside of our control and it is likely that assumptions and estimates will change in future periods. These changes can result in future impairments which could be material.

The goodwill impairment review involves a two-step process. The first step is a comparison of the reporting unit's fair value to its carrying value. Fair value is estimated by utilizing two approaches, an income approach and a market approach. The income approach uses the reporting unit's projected operating results and discounted cash flows using a weighted-average cost of capital that reflects current market conditions. The cash flow projections use estimates of economic and market information over the projection period, including growth rates in revenues and costs and estimates of future expected changes in operating margins and cash expenditures. Other significant estimates and assumptions include terminal value growth rates, future estimates of capital expenditures, and changes in future working capital requirements. The market approach estimates fair value by applying cash flow multiples to the reporting unit's operating performance. The multiples are derived from comparable publicly traded companies with similar operating and profitability characteristics. Additionally, we reconcile the total of the estimated fair values of all our reporting units to our market capitalization to determine if the sum of the individual fair values is reasonable compared to the external market indicators.

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If the carrying value of the reporting unit is higher than its fair value, then an indication of impairment may exist and a second step must be performed to measure the amount of impairment. The amount of impairment is determined by comparing the implied fair value of the reporting unit's goodwill to the carrying value of the goodwill calculated in the same manner as if the reporting unit was being acquired in a business combination. If the implied fair value of goodwill is less than the recorded goodwill, then an impairment charge for the difference is recorded. For non-amortizing intangible assets, we estimate fair value by applying an estimated market royalty rate to projected revenues and discount using a weighted-average cost of capital that reflects current market conditions.

For the analysis at December 31, 2011, related to the proposed sale of the Design-Build and Development segment, we used the pending sales price as our indicator of the implied fair value of our goodwill and intangible assets.

***Revenue Recognition***

Rental income related to non-cancelable operating leases is recognized using the straight line method over the terms of the tenant leases. Deferred rents included in our consolidated balance sheets represent the aggregate excess of rental revenue recognized on a straight line basis over the rental revenue that would be recognized under the cash flow received, based on the terms of the leases. Our leases generally contain provisions under which the tenants reimburse us for all property operating expenses and real estate taxes we incur. Such reimbursements are recognized in the period that the expenses are incurred. Lease termination fees are recognized when the related leases are canceled and we have no continuing obligation to provide services to such former tenants. We recognize amortization of the value of acquired above or below market tenant leases as a reduction of rental income in the case of above market leases or an increase to rental revenue in the case of below market leases.

For design-build contracts, we recognize revenue under the percentage of completion method. Due to the volume, varying complexity, and other factors related to our design-build contracts, the estimates required to determine percentage of completion are complex and use subjective judgments. Changes in labor costs and material inputs can have a significant impact on the percentage of completion calculations. We have a long history of developing reasonable and dependable estimates related to design-build contracts with clear requirements and rights of the parties to the contracts. As long-term design-build projects extend over one or more years, revisions in cost and estimated earnings during the course of the work are reflected in the accounting period in which the facts which require the revision become known. At the time a loss on a design-build project becomes known, the entire amount of the estimated ultimate loss is recognized in our consolidated financial statements.

We receive fees for property management and development and consulting services from time to time from third parties which are reflected as fee revenue. Management fees are generally based on a percentage of revenues for the month as defined in the related property management agreements. Revenue from development and consulting agreements is recognized as earned per the agreements. Due to the amount of control we retain, most joint venture developments will be consolidated; therefore, those development fees will be eliminated in consolidation.

Other income shown in the statement of operations generally includes interest income, primarily from the amortization of unearned income on a sales-type capital lease recognized in accordance with GAAP, and other income incidental to our operations and is recognized when earned.

We must make subjective estimates as to when our revenue is earned and the collectability of our accounts receivable related to design-build contracts and other sales, deferred rent, expense reimbursements, lease termination fees and other income. We specifically analyze accounts receivable and historical bad debts, tenant and customer concentrations, tenant and customer creditworthiness, and current economic trends when evaluating the adequacy of the allowance for bad debts. These estimates have a direct impact on our net income because a higher bad debt allowance would result in lower net income, and recognizing rental revenue as earned in one period versus another would result in higher or lower net income for a particular period.



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### ***Income Taxes***

We use certain assumptions and estimates in determining income taxes payable or refundable, deferred income tax liabilities and assets for events recognized differently in our consolidated financial statements and income tax returns, and income tax expense. Determining these amounts requires analysis of certain transactions and interpretation of tax laws and regulations. We exercise considerable judgment in evaluating the amount and timing of recognition of the resulting income tax liabilities and assets. These judgments and estimates are re-evaluated on a continual basis as regulatory and business factors change.

Tax returns submitted by us or the income tax reported on the consolidated financial statements may be subject to adjustment by either adverse rulings by the U.S. Tax Court, changes in the tax code, or assessments made by the Internal Revenue Service ( IRS ). We are subject to potential adverse adjustments, including but not limited to: an increase in the statutory federal or state income tax rates, the permanent nondeductibility of amounts currently considered deductible either now or in future periods, and the dependency on the generation of future taxable income, including capital gains, in order to ultimately realize deferred income tax assets.

We will only include the current and deferred tax impact of our tax positions in the financial statements when it is more likely than not (likelihood of greater than 50%) that such positions will be sustained by taxing authorities, with full knowledge of relevant information, based on the technical merits of the tax position. While we support our tax positions by unambiguous tax law, prior experience with the taxing authority, and analysis that considers all relevant facts, circumstances and regulations, we must still rely on assumptions and estimates to determine the overall likelihood of success and proper quantification of a given tax position.

We recognize deferred tax assets and liabilities based on differences between the financial statement carrying amounts and the tax bases of assets and liabilities. We regularly review our deferred tax assets for recoverability. Accounting literature states that a deferred tax asset should be reduced by a valuation allowance if based on the weight of all available evidence, it is more likely than not (a likelihood of more than 50%) that some portion or the entire deferred tax asset will not be realized. The determination of whether a deferred tax asset is realizable is based on weighting all available evidence, including both positive and negative evidence. In making such judgments, significant weight is given to evidence that can be objectively verified.

### **REIT Qualification Requirements**

We are subject to a number of operational and organizational requirements to qualify and then maintain qualification as a REIT. If we do not qualify as a REIT, our income would become subject to U.S. federal, state and local income taxes at regular corporate rates which could be substantial and we could not re-elect to qualify as a REIT for four taxable years following the year we failed to qualify as a REIT. The resulting adverse effects on our results of operations, liquidity and amounts distributable to stockholders may be material.

### **Changes in Financial Condition**

In January 2011, we issued approximately 0.3 million shares of 8.500% Series A Cumulative Redeemable Perpetual Preferred Stock ( Series A preferred shares ) in a follow-on offering, resulting in net proceeds of approximately \$8.2 million. The initial offering of Series A preferred shares occurred in December 2010. The net proceeds were used to reduce borrowings under the Credit Facility, to fund build to suit development projects, and for working capital and other general corporate purposes.

Total assets increased from \$632.9 million to \$692.1 million from December 31, 2010 to December 31, 2011, primarily due to acquisitions of medical office buildings and construction of new medical office buildings. This increase is offset by impairment charges at the Design-Build and Development segment. For additional information regarding the impairment, see Note 9 in the accompanying Notes to Consolidated Financial Statements in this Form 10-K.

### **Results of Operations**

Our income (loss) from operations is generated primarily from operations of our properties and design-build services and to a lesser degree from consulting and property management agreements. The changes in operating results from period to period reflect changes in existing property performance, changes in the number of properties due to development, acquisition, or disposition of properties, and the operating results of the Design-Build and Development segment. For the year ended December 31, 2011, a significant proportion of our loss from operations is due to the \$26.9 million non-cash impairment charge discussed previously in the Overview section.



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***Business Segments***

We have two identified reportable segments: (1) Property Operations and (2) Design-Build and Development. We define business segments by their distinct customer base and service provided. While we operate as a single entity, we produce discrete financial information for each segment, which is reviewed by the chief operating decision maker to make resource allocation decisions and assess performance. Property Operations includes real estate investment and rental activities as well as property management for third parties. Design-Build and Development includes design-build construction activities as well as development and consulting activities. For additional information, see Note 7 in the accompanying Notes to Consolidated Financial Statements in the Form 10-K.

***Property Summary***

The following is an activity summary of our property portfolio (excluding unconsolidated real estate partnerships) for the years ended December 31, 2011 and 2010:

|                           | September 30,<br>For the Year Ended<br>2011 | September 30,<br>For the Year Ended<br>2010 |
|---------------------------|---|---|
| Properties at January 1   | 66  | 62  |
| Acquisitions              | 3   | 1   |
| Developments              | 2   | 3   |
| Properties at December 31 | 71  | 66  |

The tables above include East Jefferson MRI, which is accounted for as a sales-type capital lease.

A property is considered stabilized upon the earlier of (1) achieving intended occupancy and substantial completion of tenant improvements, or (2) completion of the fill-up period specified within the property's underwriting. Fill-up properties are newly available properties that have not achieved underwritten stabilized occupancy. For portfolio and operational data, a single stabilized date is used. For GAAP reporting purposes, a property is placed into service in stages as construction is completed and the property and tenant space is available for its intended use. At December 31, 2011, we had three properties in fill-up, St. Elizabeth Florence Medical Office Building located in Florence, Kentucky, St. Elizabeth Covington Medical Center, located in Covington, Kentucky, and Good Sam Medical Office Building, located in Puyallup, Washington.

***Year ended December 31, 2011 compared to the year ended December 31, 2010***

***Funds from Operations Modified ( FFOM )***

For the year ended December 31, 2011, FFOM, excluding our impairment, litigation gains and losses, deferred tax asset valuation allowance, and retirement compensation, decreased \$12.3 million, or 42.8% compared to the same period in the prior year. This decrease is due to 1) decrease in Design-Build and Development segment revenue due to fewer active revenue generating third-party design-build construction projects for the periods, 2) decreases in gross margins for the Design-Build and Development segment, and 3) additional preferred stock dividends of \$6.0 million, offset by five additional stabilized properties in our portfolio.

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The following is a summary of FFOM for the year ended December 31, 2011 and 2010 (in thousands):

|  | September 30,<br>For the Year Ended<br>December 31,<br>2011 | September 30,<br>For the Year Ended<br>December 31,<br>2010 |
|--|---|---|
| FFOM attributable to:  |   |   |
| Property operations  | \$ 59,294   | \$ 56,054   |
| Design-Build and development, excluding impairment charges and litigation gains and losses                                   | (4,597)   | 3,930   |
| Intersegment eliminations  | (1,456)   | (2,896)   |
| Unallocated and other, excluding CEO retirement expense  | (36,743)  | (28,270)  |
| FFOM, excluding impairment, litigation gains and losses, deferred tax asset valuation allowance, and retirement compensation | 16,498  | 28,818  |
| Impact of impairment, litigation gains and losses, deferred tax asset valuation allowance, and retirement compensation:      |   |   |
| Long-lived and intangible asset impairment charges, net of tax benefit   | (26,885)  | (104,674)   |
| Litigation gain (loss) provision   | (1,461)   |   |
| Litigation gain settlement   | 500   |   |
| Deferred tax asset valuation allowance   |   | (10,553)  |
| Mr. Spencer's retirement compensation expense, net of tax benefit  |   | (2,545)   |
| Mr. Cogdell's retirement compensation expense  |   | (1,493)   |
| FFOM   | \$ (11,348)   | \$ (90,447)   |

See Note 7 in the accompanying Notes to Consolidated Financial Statements in this Form 10-K for business segment information and management's use of FFO and FFOM to evaluate operating performance. The following table presents the reconciliation of FFO and FFOM to net loss, which is the most directly comparable GAAP measure to FFO and FFOM, for the years ended December 31, 2011 and 2010 (in thousands):

|  | September 30,<br>For the Year Ended<br>December 31,<br>2011 | September 30,<br>For the Year Ended<br>December 31,<br>2010 |
|--|---|---|
| Net loss   | \$ (35,099)   | \$ (118,616)  |
| Add:   |   |   |
| Real estate related depreciation and amortization:   |   |   |
| Wholly-owned and consolidated properties   | 31,085  | 29,164  |
| Unconsolidated real estate partnerships  | 10  | 13  |
| Acquisition-related expenses   | 523   |   |
| Less:  |   |   |
| Noncontrolling interests in real estate partnerships, before real estate related depreciation and amortization | (2,544)   | (2,031)   |
| Gain on sale of real estate property   |   | (264)   |
| Dividends on preferred stock   | (6,248)   | (208)   |
| Funds from Operations (FFO)  | (12,273)  | (91,942)  |
| Amortization of intangibles related to purchase accounting, net of income tax benefit                          | 925   | 1,495   |
| Funds from Operations Modified (FFOM)  | \$ (11,348)   | \$ (90,447)   |



**Table of Contents*****FFOM attributable to Property Operations, net of intersegment eliminations***

The following is a summary of FFOM attributable to the Property Operations segment, net of intersegment eliminations, for the years ended December 31, 2011 and 2010 (in thousands):

|   | <b>September 30,<br/>For the Year Ended<br/>December 31,<br/>2011</b> | <b>September 30,<br/>For the Year Ended<br/>December 31,<br/>2010</b> |
|---|---|---|
| Rental revenue, net of intersegment eliminations of \$0 in 2011 and \$92 in 2010                                | \$ 96,253   | \$ 87,803   |
| Property management and other fee revenue   | 3,143   | 3,212   |
| Property operating and management expenses  | (38,338)  | (33,664)  |
| Interest and other income   | 749   | 607   |
| Earnings from unconsolidated real estate partnerships, before real estate related depreciation and amortization | 31  | 26  |
| Noncontrolling interests in real estate partnerships, before real estate related depreciation and amortization  | (2,544)   | (2,031)   |
| Income from discontinued operations, before gain on sale  |   | 9   |
| FFOM, net of intersegment eliminations  | 59,294  | 55,962  |
| Intersegment eliminations   |   | 92  |
| FFOM  | \$ 59,294   | \$ 56,054   |

See Note 7 in the accompanying Notes to Consolidated Financial Statements in this Form 10-K for a reconciliation of above segment FFOM to net income (loss).

For the year ended December 31, 2011, FFOM attributable to Property Operations, net of intersegment eliminations, increased \$3.3 million, or 6.0%, compared to the same period last year. The increase in rental revenue is primarily due to the addition of five properties, as well as increases in rental rates associated with CPI increases and reimbursable expenses. The increase in property operating and management expenses are primarily due to the addition of the five new properties.

***FFOM attributable to Design-Build and Development, net of intersegment eliminations***

The following is a summary of FFOM attributable to the Design-Build and Development segment, net of intersegment eliminations, for the years ended December 31, 2011 and 2010 (in thousands):

|  | <b>September 30,<br/>For the Year Ended<br/>December 31,<br/>2011</b> | <b>September 30,<br/>For the Year Ended<br/>December 31,<br/>2010</b> |
|--|---|---|
| Design-Build contract revenue and other sales, net of intersegment eliminations of \$43,061 in 2011 and \$22,741 in 2010             | \$ 79,019   | \$ 91,256   |
| Development management and other income, net of intersegment eliminations of \$1,832 in 2011 and \$5,715 in 2010                     | 122   | 146   |
| Design-Build contract and development management expenses, net of intersegment eliminations of \$43,437 in 2011 and \$25,560 in 2010 | (69,704)  | (72,001)  |
| Selling, general, and administrative expenses, net of intersegment eliminations of \$0 in 2011 and \$92 in 2010                      | (14,402)  | (17,281)  |
| Interest and other income  | 16  | 3   |
| Depreciation and amortization  | (1,104)   | (997)   |

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|  |                 |                  |
|--|-----------------|------------------|
| FFOM, excluding impairment and litigation gains and losses; net of intersegment eliminations | (6,053)         | 1,126            |
| Intersegment eliminations  | 1,456           | 2,804            |
| FFOM, excluding impairment and litigation gains and losses                                   | (4,597)         | 3,930            |
| Impact of litigation gains and losses and impairment charges:                                |                 |                  |
| Long-lived and intangible asset impairment charges, net of tax benefit                       | (26,885)        | (127,041)        |
| Litigation gain (loss) provision   | (1,461)         |                  |
| Litigation gain settlement   | 500             |                  |
| <br>FFOM   | <br>\$ (32,443) | <br>\$ (123,111) |

See Note 7 in the accompanying Notes to Consolidated Financial Statements in this Form 10-K for a reconciliation of above segment FFOM to net income (loss).

For the year ended December 31, 2011, FFOM attributable to the Design-Build and Development segment, net of intersegment eliminations, excluding impairment and litigation gains and losses, decreased \$7.2 million, compared to the same period last year. The decrease is due to fewer active revenue generating third-party design-build construction projects, compared to the same period last year, and lower total gross margin percentage.

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Design-Build Revenues decreased \$12.2 million, or 13.4%, for the year ended December 31, 2011, compared to the same period last year. Included in 2010 revenue was \$9.8 million related to an agreement for design services only. There were no similar design services only agreements in the current period.

Intersegment Design-Build Revenues increased \$16.4 million, or 57.8%, for year ended December 31, 2011, compared to the same period last year. The number of projects under construction for our ownership has increased from two in 2010 to three in 2011. Additionally, there was an increased number of tenant improvement projects for operating buildings performed in 2011 compared to 2010.

For the year ended December 31, 2011, gross margin percentage (Design-Build Revenues less design-build contract and development management expenses and as a percent of revenues) decreased from 21.1% to 11.8% from the prior year. The decrease is primarily due to the gross margin on the \$9.8 million revenue discussed in the Design-Build Revenues paragraph above having a greater than normal gross margin because it was an analysis and design agreement that utilized our engineering and architectural professionals and no construction sub-contractors.

For the year ended December 31, 2011, selling, general, and administrative expenses attributable to the Design-Build and Development segment decreased \$2.9 million, or 16.7%, as compared to the same period last year. This decrease is primarily due to severance charges related to a reduction in force that occurred in June 2010.

For the year ended December 31, 2011, we recorded an impairment charge of \$26.9 million related to the proposed sale of the Design-Build and Development segment. See further explanation of this charge below.

For the year ended December 31, 2011, an arbitrator awarded \$2.5 million to plaintiffs in a case in which we were named as the defendant. We accrued \$1.5 million of this award during 2011 and accrued \$1.0 million during 2009. We paid the \$2.5 million award in 2011.

For the year ended December 31, 2011, we settled a separate case for \$0.5 million in cash in which we were the plaintiff. We recorded a litigation gain of \$0.5 million in 2011.

### ***Selling, general, and administrative***

For the year ended December 31, 2011, selling, general, and administrative expenses decreased \$5.6 million, or 18.3%, as compared to the same period last year. Excluding the changes attributable to the Design-Build and Development segment, which are discussed above, selling, general and administrative expenses decreased \$4.1 million. The decrease is primarily due to non-recurring compensation expenses in 2010 associated with the retirement of Mr. Spencer and Mr. Cogdell. During 2010, we incurred a \$2.5 million charge, net of tax benefit, related to the retirement of Mr. Spencer, our former Chief Executive Officer, and a \$1.5 million charge related to the retirement of Mr. Cogdell, our founder as well as a former member of senior management, in accordance with their employment agreements.

### ***Depreciation and amortization***

For the year ended December 31, 2011, depreciation and amortization expenses increased \$0.5 million, or 1.4%, as compared to last year. The increase is primarily due to the addition of five new properties, Good Samaritan Medical Office Building which began operations in December 2011, Bonney Lake Medical Office Building which began operations in August 2011, Doylestown Health & Wellness Center which was acquired in June 2011, St Elizabeth Covington which was acquired in June 2011, St Elizabeth Florence MOB which was acquired in January 2011, offset by the timing of a decrease in the amortization of intangible assets due to these assets becoming fully amortized.

### ***Impairment charges***

We recorded a goodwill and intangible asset impairment charge of \$23.3 million at December 31, 2011, related to the proposed sale of the Design-Build and Development segment. This charge reduced the carrying value of goodwill and customer relationships by \$22.9 million and \$0.4 million, respectively. These are non-cash charges. See Note 3 to these Consolidated Financial Statements for a discussion of the proposed sale of our company. Additionally, we recorded an impairment charge of \$3.6 million at December 31, 2011, related to property, plant, and equipment associated with the Design-Build and Development segment. The total impairment charge for goodwill, customer relationships, and property, plant, and equipment was \$26.9 million. For the analysis at December 31, 2011, related to the proposed sale of the Design-Build and Development segment, we used the pending sales price as our indicator of the implied fair value of our goodwill and intangible assets.





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We performed an interim impairment review of goodwill and intangible assets related to the Design-Build and Development business segment as of June 30, 2010, and an annual review as of December 31, 2010. For the year ended December 31, 2010, we recorded an impairment charge to goodwill of \$85.8 million (\$79.4 million after taxes) and we also recorded impairment charges of \$41.2 million (\$25.2 million after taxes) related to trade names and trademarks. These are non-cash charges. We reviewed our position in the healthcare construction market place and our business development strategy. Based on our review of industry data, it was noted that our Design-Build and Development segment had lost market share in each of the last two years. As a result, we lowered our expected future Design-Build and Development cash flows, which lowered the valuation of the reporting unit and caused the impairment charges. Due to decreases in market share, changes in our brand name, and decreased emphasis on branding, we had valued our acquired trade names and trademarks at zero as of December 31, 2010. We also evaluated our amortizing intangible assets and concluded no impairment existed for those assets.

**Interest expense**

For the year ended December 31, 2011, interest expense decreased \$0.7 million, or 3.2%, as compared to the same period last year. This decrease is primarily due to the repayment of a \$50.0 million term loan in December 2010, offset by interest on notes payable for the properties that became operational or were acquired in 2011 and 2010.

**Income tax benefit (expense)**

For the year ended December 31, 2011, income tax benefit (expense) decreased \$16.4 million as compared to the same period last year. We record income taxes associated with our taxable REIT subsidiaries ( TRSs ), which include our Design-Build and Development business segment. During 2010, we recorded an income tax benefit related to the Design-Build and Development segment's impairment charges. During 2011, the income tax benefit associated with the net losses incurred by the Design-Build and Development segment was fully offset by a deferred tax asset valuation allowance and there was no similar income tax benefit related to the segment's impairment charges.

**Cash Flows**

Cash provided by operating activities increased \$24.4 million, or 325.5%, for the year ended December 31, 2011, as compared to the same period last year, and is summarized below (in thousands):

|   | September 30,<br>2011 | September 30,<br>2010 |
|---|-----------------------|-----------------------|
| Net loss plus non-cash adjustments          | \$ 25,596             | \$ 25,193             |
| Changes in operating assets and liabilities | 6,301                 | (17,697)              |
| Net cash provided by operating activities   | \$ 31,897             | \$ 7,496              |

The net loss plus non-cash adjustments increased \$0.4 million, or 1.6%, for the year ended December 31, 2011, as compared to the same period last year. This increase is primarily due to increased net income after non-cash adjustments for the Property Operations segment, offset by decreased net loss after non-cash adjustments for the Design-Build and Development. The changes in operating assets and liabilities increased \$24.0 million for the year ended December 31, 2011, as compared to the same period last year. This increase is primarily due to 1) stabilization of active design-build projects which resulted in the stabilization of design-build billings in excess of costs and estimated earnings on uncompleted contracts as compared to the same period last year where there was a significant decrease in billing in excess of costs and estimated earnings; and 2) an increase in tenant funding responsibility for development projects.

Cash used in investing activities increased \$52.6 million, or 118.9%, for the year ended December 31, 2011, as compared to the same period last year. The increase resulted from our current year acquisitions, having more development projects under construction in the current period compared to the same period last year, and increased second generation leasing activity.

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Investment in real estate properties consisted of the following for the years ended December 31, 2011 and 2010 (in thousands):

|  | September 30,<br>2011 | September 30,<br>2010 |
|--|-----------------------|-----------------------|
| Development, redevelopment, and acquisitions | \$ 86,097             | \$ 38,841             |
| Second generation tenant improvements        | 10,311                | 2,977                 |
| Recurring property capital expenditures      | 3,364                 | 1,096                 |
| Investment in real estate properties         | \$ 99,772             | \$ 42,914             |

Investments in development, redevelopment, and acquisitions increased from 2010 to 2011 due to more development projects under construction and increased second generation leasing activity.

Cash provided by financing activities increased by \$46.4 million for the year ended December 31, 2011, as compared to the same period last year. The change is primarily due to net proceeds drawn down from the Credit Facility of \$50.0 million and the addition of a term loan of \$80.8 million, offset by net mortgage note repayments of \$39.4 million, an increase in financing costs of \$3.8 million, and dividends to preferred shareholders of \$5.9 million for the year ended December 31, 2011, compared to net debt and equity proceeds of \$43.8 million for the year ended December 31, 2010.

***Year ended December 31, 2010 compared to the year ended December 31, 2009******Funds from Operations Modified ( FFOM )***

For the year ended December 31, 2010, FFOM, excluding non-recurring events and impairment charges, decreased \$1.2 million, or 3.9%, compared to the same period in the prior year. The \$1.2 million decrease is due to decreased Design-Build and Development FFOM, offset by increased Property Operations FFOM, decreased corporate general and administrative expenses, and increased income tax benefit applicable to FFOM.

The following is a summary of FFOM for the year ended December 31, 2010 and 2009 (in thousands):

|   | September 30,<br>2010 | September 30,<br>2009 |
|---|-----------------------|-----------------------|
| FFOM attributable to:   |                       |                       |
| Property operations, excluding impairment charges                                   | \$ 56,054             | \$ 50,729             |
| Design-Build and development, excluding impairment charges                          | 3,930                 | 19,297                |
| Intersegment eliminations   | (2,896)               | (7,751)               |
| Unallocated and other, excluding non-recurring events                               | (28,270)              | (31,046)              |
| FFOM, excluding non-recurring events and impairment charges                         | 28,818                | 31,229                |
| Non-recurring events and impairment charges:  |                       |                       |
| Goodwill and intangible asset impairment charges, net of tax benefit                | (104,674)             | (101,746)             |
| Deferred tax asset valuation allowance  | (10,553)              |                       |
| Mr. Spencer's retirement compensation expense, net of tax benefit                   | (2,545)               |                       |
| Mr. Cogdell's retirement compensation expense                                       | (1,493)               |                       |
| Gain on settlement from MEA Holdings, Inc. transaction                              |                       | 4,905                 |
| Strategic planning professional fees  |                       | (2,641)               |
| Debt extinguishment and interest rate derivative expense, net of income tax benefit |                       | (1,520)               |
| Impairment of real estate property held for sale                                    |                       | (1,359)               |
| FFOM  | \$ (90,447)           | \$ (71,132)           |



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See Note 7 in the accompanying Notes to Consolidated Financial Statements in this Form 10-K for business segment information and management's use of FFO and FFOM to evaluate operating performance. The following table presents the reconciliation of FFO and FFOM to net loss, which is the most directly comparable GAAP measure to FFO and FFOM, for the years ended December 31, 2010 and 2009 (in thousands):

|  | September 30,<br>2010 | September 30,<br>2009 |
|--|-----------------------|-----------------------|
| Net loss   | \$ (118,616)          | \$ (101,962)          |
| Add:   |                       |                       |
| Real estate related depreciation and amortization:   |                       |                       |
| Wholly-owned and consolidated properties, including amounts in discontinued operations                         | 29,164                | 29,102                |
| Unconsolidated real estate partnerships  | 13                    | 12                    |
| Less:  |                       |                       |
| Noncontrolling interests in real estate partnerships, before real estate related depreciation and amortization | (2,031)               | (1,049)               |
| Gain on sale of real estate property   | (264)                 |                       |
| Dividends on preferred stock   | (208)                 |                       |
| Funds from Operations (FFO)  | (91,942)              | (73,897)              |
| Amortization of intangibles related to purchase accounting, net of income tax benefit                          | 1,495                 | 2,765                 |
| Funds from Operations Modified (FFOM)  | \$ (90,447)           | \$ (71,132)           |

***FFOM attributable to Property Operations, net of intersegment eliminations***

The following is a summary of FFOM attributable to the Property Operations segment, net of intersegment eliminations, for the years ended December 31, 2010 and 2009 (in thousands):

|  | September 30,<br>2010 | September 30,<br>2009 |
|--|-----------------------|-----------------------|
| Rental revenue, net of intersegment eliminations of \$92 in 2010 and 2009  | \$ 87,803             | \$ 79,486             |
| Property management and other fee revenue  | 3,212                 | 3,336                 |
| Property operating and management expenses   | (33,664)              | (31,810)              |
| Interest and other income  | 607                   | 541                   |
| Earnings (loss) from unconsolidated real estate partnerships, before real estate related depreciation and amortization | 26                    | 27                    |
| Noncontrolling interests in real estate partnerships, before real estate related depreciation and amortization         | (2,031)               | (1,049)               |
| Income from discontinued operations, before real estate related depreciation and amortization and gain on sale         | 9                     | (1,253)               |
| FFOM, net of intersegment eliminations   | 55,962                | 49,278                |
| Intersegment eliminations  | 92                    | 92                    |
| FFOM   | \$ 56,054             | \$ 49,370             |

See Note 7 in the accompanying Notes to Consolidated Financial Statements in this Form 10-K for a reconciliation of above segment FFOM to net income (loss).

For the year ended December 31, 2010, FFOM attributable to Property Operations, net of intersegment eliminations, increased \$6.7 million, or 13.6%, compared to the same period last year. The increase in rental revenue is primarily due to the addition of four properties, the Woodlands Center for Specialized Medicine property (a consolidated real estate partnership) which began operations in December 2009, Medical Center

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Physicians Tower which began operations in February 2010, University Physicians Grants Ferry medical office building which began operations in June 2010, and HealthPartners Medical & Dental Clinics medical office building which began operations in June 2010, as well as increases in rental rates associated with CPI increases and reimbursable expenses. The increase in property operating and management expenses and the increase in noncontrolling interests in real estate partnerships before real estate related depreciation and amortization were primarily due to the addition of the properties previously mentioned.

**Table of Contents*****FFOM attributable to Design-Build and Development, net of intersegment eliminations***

The following is a summary of FFOM attributable to the Design-Build and Development segment, net of intersegment eliminations, for the years ended December 31, 2010 and 2009 (in thousands):

|  | September 30,<br>2010 | September 30,<br>2009 |
|--|-----------------------|-----------------------|
| Design-Build contract revenue and other sales, net of intersegment eliminations of \$22,741 in 2010 and \$32,708 in 2009             | \$ 91,256             | \$ 143,416            |
| Development management and other income, net of intersegment eliminations of \$5,715 in 2010 and \$3,387 in 2009                     | 146                   | 3,363                 |
| Design-Build contract and development management expenses, net of intersegment eliminations of \$25,560 in 2010 and \$28,344 in 2009 | (72,001)              | (113,961)             |
| Selling, general, and administrative expenses, net of intersegment eliminations of \$92 in 2010 and 2009                             | (17,281)              | (20,449)              |
| Interest and other income  | 3                     | 48                    |
| Depreciation and amortization  | (997)                 | (779)                 |
| <b>FFOM, excluding impairment charge, net of intersegment eliminations</b>   | <b>1,126</b>          | <b>11,638</b>         |
| Goodwill and intangible asset impairment charges   | (127,041)             | (120,920)             |
| <b>FFOM, net of intersegment eliminations</b>  | <b>(125,915)</b>      | <b>(109,282)</b>      |
| Intersegment eliminations  | 2,804                 | 7,659                 |
| <b>FFOM</b>  | <b>\$ (123,111)</b>   | <b>\$ (101,623)</b>   |

See Note 7 in the accompanying Notes to Consolidated Financial Statements in this Form 10-K for a reconciliation of above segment FFOM to net income (loss).

For the year ended December 31, 2010, FFOM, excluding impairment charges, attributable to the Design-Build and Development segment, net of intersegment eliminations, decreased \$10.5 million, or 90.3%, compared to the same period last year. The decrease is due to fewer active revenue generating third-party design-build construction projects and lower gross margin percentages.

Design-Build contract revenue and other sales plus development management and other income, all net of intersegment eliminations ( Design-Build Revenues ) decreased \$55.4 million, or 37.7%, for the year ended December 31, 2010 compared to the same period last year. This decrease is due to a lower volume of activity as the number of active revenue generating design-build construction projects has decreased from 18 at December 31, 2009 to nine at December 31, 2010. The decreased activity is due to the current economic environment, general uncertainty regarding government health care reform implementation and government payor reimbursement rates, clients' difficulty in obtaining financing, and our decreased market share.

Gross margin percentage (design-build and development revenues less design-build contract and development management expenses and as a percent of revenues) decreased from 22.4% for the year ended December 31, 2009 to 21.2% for the year ended December 31, 2010. This decrease was primarily due to costs being absorbed by fewer projects due to the lower volume of active projects in 2010 compared to 2009.

Selling, general, and administrative expenses attributable to the Design-Build and Development segment decreased \$3.2 million, or 15.5%, for the year ended December 31, 2010 compared to the same period last year. This decrease was primarily due to an allowance for uncollectible accounts that was recorded in the third quarter of 2009 related to a client project that lost financing during construction and no such allowance was recorded for the year ended December 31, 2010.

***Selling, general, and administrative***

For the year ended December 31, 2010, selling, general, and administrative expenses increased \$1.9 million, or 5.8%, as compared to the same period last year. Excluding the changes attributable to the Design-Build and Development segment, which are discussed above, selling, general and administrative expenses increased \$1.3 million primarily due to compensation related payments and expenses made to Mr. Cogdell, our founder as well as a member of senior management, and Mr. Spencer, our former Chief Executive Officer, offset by a decrease in professional

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fees related to an exploration of strategic alternatives.

During 2010, we incurred a \$2.5 million charge, net of tax benefit, related to the retirement of Mr. Spencer and a \$1.5 million charge related to the retirement of Mr. Cogdell in accordance with their employment agreements.



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During 2009, we explored a range of strategic alternatives that included: an assessment of potential change of control transactions; asset dispositions and acquisitions; business and portfolio combinations; debt financings and refinancings. For the year ended December 31, 2009, the selling, general and administrative expense associated with this exercise totaled approximately \$2.6 million and included fees for consultants, accountants, attorneys, and other service providers. There were no such expenses in 2010.

### ***Depreciation and amortization***

For the year ended December 31, 2010, depreciation and amortization expenses decreased \$1.7 million, or 4.8%, as compared to the same period last year. The decrease was primarily due to a decrease in amortization of intangible assets due to lower carrying values resulting from the impairment recorded in the first quarter of 2009 offset by the addition of four properties, the Woodlands Center for Specialized Medicine property (a consolidated real estate partnership) which began operations in December 2009, Medical Center Physicians Tower which began operations in February 2010, University Physicians Grants Ferry medical office building which began operations in June 2010, and HealthPartners Medical & Dental Clinics medical office building which began operations in June 2010.

### ***Impairment charges***

We performed an interim impairment review of goodwill and intangible assets related to the Design-Build and Development business segment as of June 30, 2010, and an annual review as of December 31, 2010. For the year ended December 31, 2010, we recorded an impairment charge to goodwill of \$85.8 million (\$79.4 million after taxes) and we also recorded impairment charges of \$41.2 million (\$25.2 million after taxes) related to trade names and trademarks. These are non-cash charges. We reviewed our position in the healthcare construction market place and our business development strategy. Based on our review of industry data, it was noted that our Design-Build and Development segment had lost market share in each of the last two years. As a result, we lowered our expected future Design-Build and Development cash flows, which lowered the valuation of the reporting unit and caused the impairment charges. Due to decreases in market share, changes in our brand name, and decreased emphasis on branding, we had valued our acquired trade names and trademarks at zero as of December 31, 2010. We also evaluated our amortizing intangible assets and had concluded no impairment existed for those assets.

An interim review of the Design-Build and Development's intangible assets was also performed on March 31, 2009, due to a decline in our stock price, a decline in the cash flow multiples for comparable public engineering and construction companies, and changes in the cash flow projections for the Design-Build and Development business segment resulting from a decline in backlog and delays and cancellations of client building projects. As a result of the March 31, 2009, review, we recorded, during the three months ended March 31, 2009, an impairment charge to goodwill of \$71.8 million. We also recorded impairment charges of \$34.7 million (\$21.2 million after taxes) related to trade names and trademarks and \$14.4 million (\$8.8 million after taxes) related to the amortizing intangibles of proposals and customer relationships. These are non-cash charges.

### ***Interest expense***

For the year ended December 31, 2010, interest expense increased \$0.3 million, or 1.3%, as compared to the same period last year. This increase is primarily due to interest on mortgage notes payable for properties that became operational December 2009, February 2010, and June 2010 offset by lower debt balances as we used a portion of the proceeds from the June 2009, May 2010, and December 2010 equity offerings to repay debt.

### ***Income tax benefit (expense)***

For the year ended December 31, 2010, income tax benefit decreased \$5.8 million, or 26.1%, as compared to the same period last year. This decrease was primarily due to the \$10.5 million deferred tax asset valuation allowance recorded in 2010 compared to no valuation allowance recorded in 2009. This decrease was offset by a pre-tax loss that was greater in 2010 compared to 2009, resulting in an income tax benefit that was \$6.7 million greater in 2010 compared to 2009.

**Table of Contents****Cash Flows**

Cash provided by operating activities decreased \$37.9 million, or 83.5%, for the year ended December 31, 2010, as compared to the same period last year, and is summarized below (in thousands):

|  | September 30,<br>2010 | September 30,<br>2009 |
|--|-----------------------|-----------------------|
| Net loss plus non-cash adjustments               | \$ 25,193             | \$ 37,599             |
| Changes in operating assets and liabilities      | (17,697)              | 7,844                 |
| <b>Net cash provided by operating activities</b> | <b>\$ 7,496</b>       | <b>\$ 45,443</b>      |

The net loss plus non-cash adjustments decreased \$12.4 million, or 33.0%, for the year ended December 31, 2010, as compared to the same period last year. This decrease is primarily due to decreased net loss after non-cash adjustments for the Design-Build and Development segment offset by increased net income after non-cash adjustments for the Property Operations segment. The changes in operating assets and liabilities decreased \$25.5 million for the year ended December 31, 2010, as compared to the same period last year. This decrease is primarily due to a decrease in design-build billings in excess of costs and estimated earnings on uncompleted contracts, which decreases cash provided by operations. Due to the decrease in the number of active design-build projects and the timing of the current projects, there was a significant decrease in billings in excess of costs and estimated earnings on uncompleted projects.

Cash used in investing activities decreased \$10.0 million, or 18.4%, for the year ended December 31, 2010, as compared to the same period last year. The decrease resulted from us having fewer development projects under construction in 2010 compared to 2009. The increase in restricted cash is related to funds that we deposited with our construction lender for the Puyallup, Washington project as well as funds deposited in relation to other development projects. We received cash proceeds from the sale of Harbison Medical Office Building in the second quarter of 2010. See Note 7 in the accompanying Notes to Consolidated Financial Statements in this Form 10-K.

Investment in real estate properties consisted of the following for the years ended December 31, 2010 and 2009 (in thousands):

|  | September 30,<br>2010 | September 30,<br>2009 |
|--|-----------------------|-----------------------|
| Development, redevelopment, and acquisitions | \$ 38,841             | \$ 49,007             |
| Second generation tenant improvements        | 2,977                 | 3,932                 |
| Recurring property capital expenditures      | 1,096                 | 1,633                 |
| <b>Investment in real estate properties</b>  | <b>\$ 42,914</b>      | <b>\$ 54,572</b>      |

Investments in development, redevelopment, and acquisitions decreased from 2009 to 2010 due to one fewer project under construction.

Cash provided by financing activities increased by \$23.0 million for the year ended December 31, 2010, as compared to same period last year. The change is primarily due to an increase of equity net proceeds of \$33.7 million offset by a decrease in mortgage and Credit Facility proceeds of \$14.0 million.

**Construction in Progress**

Construction in progress at December 31, 2011, consisted of the following (dollars in thousands):

| September 30, | September 30,<br>Estimated<br>Completion | September 30,<br>Net Rentable<br>Square Feet | September 30,<br>Investment | September 30,<br>Estimated<br>Total |
|---------------|--|--|-----------------------------|-------------------------------------|
|---------------|--|--|-----------------------------|-------------------------------------|

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| Property                               | Location   | Date    | (unaudited) | to Date   | Investment |
|--|------------|---------|-------------|-----------|------------|
| St Lukes Medical Office Building       | Duluth, MN | 3Q 2012 | 176,000     | \$ 10,043 | \$ 27,800  |
| Land and pre-construction developments |            |         |             | 2,214     |            |
|  |            |         | 176,000     | \$ 12,257 | \$ 27,800  |

**Liquidity and Capital Resources**

In addition to amounts available under the Credit Facility, as of December 31, 2011, we had approximately \$16.7 million available in cash and cash equivalents.

On March 1, 2011, we amended and restated our secured revolving credit facility ( Credit Facility ). This \$200.0 million Credit Facility is held with a syndicate of financial institutions. The Credit Facility is available (1) to fund working capital and other general corporate purposes, (2) to finance acquisition and development activity, and (3) to refinance existing and future indebtedness. The Credit Facility permits us to borrow, subject to borrowing base availability, up to \$200.0 million of revolving loans, with sub-limits of \$25.0 million for swingline loans and \$25.0 million for letters of credit. As of December 31, 2011, the

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maximum available borrowings under the Credit Facility was \$121.5 million, based on 70% of the value of the aggregate property pledged as collateral. As of December 31, 2011, there was \$18.5 million available under the Credit Facility as \$95.0 million was outstanding and \$8.0 million of availability was restricted related to outstanding letters of credit. We have the ability to increase the availability by pledging additional unencumbered property to the Credit Facility.

The Credit Facility also allows for up to \$150.0 million of increased availability (to a total aggregate available amount of \$350.0 million), at our request but subject to each lender's option to increase its commitment. The interest rate on loans under the Credit Facility equals, at our election, either (1) LIBOR (0.30% as of December 31, 2011) plus a margin of between 275 to 350 basis points based on our total leverage ratio (3.25% as of December 31, 2011) or (2) the higher of the federal funds rate plus 50 basis points or Bank of America, N.A.'s prime rate (3.25% as of December 31, 2011) plus a margin of between 175 to 250 (2.25% as of December 31, 2011) basis points based on our total leverage ratio.

The Credit Facility contains customary terms and conditions for credit facilities of this type, including, but not limited to, (1) affirmative covenants relating to our corporate structure and ownership, maintenance of insurance, compliance with environmental laws and preparation of environmental reports, (2) negative covenants relating to restrictions on liens, indebtedness, certain investments (including loans and certain advances), mergers and other fundamental changes, sales and other dispositions of property or assets and transactions with affiliates, maintenance of our REIT qualification and listing on the NYSE or NASDAQ, and (3) financial covenants to be met at all times including a maximum total leverage ratio (65% through March 31, 2013, and 60% thereafter), maximum secured recourse indebtedness ratio, excluding the indebtedness under the Credit Facility (15%), minimum fixed charge coverage ratio (1.35 to 1.00 through March 31, 2012, and 1.50 to 1.00 thereafter), minimum consolidated tangible net worth (\$237.1 million plus 80% of the net proceeds of equity issuances issued after the closing date of March 1, 2011) and minimum net operating income ratio from properties secured under the Credit Facility to Credit Facility interest expense (1.50 to 1.00). Additionally, provisions in the Credit Facility indirectly prohibit us from redeeming or otherwise repurchasing any shares of our stock, including our preferred stock.

On August 1, 2011, we entered into Amendment No. 2 to the Credit Facility ( Amendment No. 2 to the Credit Facility ). Amendment No. 2 to the Credit Facility modified, among other things, the financial covenant to exclude the \$80.8 million secured term loan facility (the Term Loan Facility ), discussed below, from the calculation of the secured recourse indebtedness ratio and to decrease the maximum secured recourse indebtedness ratio to 15%. Prior to Amendment No. 2 to the Credit Facility, we entered into Amendment No. 1 to the Credit Facility ( Amendment No. 1 to the Credit Facility ) to make a non-material change to revise a negative covenant that unintentionally restricted our ability to incur liens securing recourse indebtedness for us or our subsidiaries.

Borrowings under the Term Loan Facility bear interest at either (1) LIBOR (0.30% as of December 31, 2011) plus a margin of between 325 to 400 basis points based on our total leverage ratio (3.75% as of December 31, 2011) or (2) the higher of the federal funds rate plus 50 basis points or Bank of America, N.A.'s prime rate (3.25% as of December 31, 2011) plus a margin of between 225 to 300 (2.75% as of December 31, 2011) basis points based on our total leverage ratio.

The Term Loan Facility is secured by a pledge of our ownership interests in certain of our property-owning subsidiaries. We will be required, however, to deliver mortgages on the borrowing base properties if we exceed a specified leverage ratio or fail to meet a specified fixed charge ratio. The Term Loan Facility is guaranteed by us and certain of our subsidiaries.

We are subject to customary covenants substantially similar to those for the Credit Facility including, but not limited to, (1) affirmative covenants relating to our corporate structure and ownership, maintenance of insurance, compliance with environmental laws and preparation of environmental reports, (2) negative covenants relating to restrictions on liens, indebtedness, certain investments (including loans and certain advances), mergers and other fundamental changes, sales and other dispositions of property or assets and transactions with affiliates, maintenance of our REIT qualification and listing on the NYSE or NASDAQ, and (3) financial covenants to be met by us at all times including a maximum total leverage ratio (65% through March 31, 2013, and 60% thereafter), maximum secured recourse indebtedness ratio, excluding the indebtedness under the Term Loan Facility and the Credit Facility (15%), minimum fixed charge coverage ratio (1.35 to 1.00 through March 31, 2013, and 1.50 to 1.00 thereafter), and minimum consolidated

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tangible net worth (\$237.1 million plus 80% of the net proceeds of equity issuances occurring after the closing date of the Term Loan Facility). In addition to the covenants above, we are also subject to a debt service coverage ratio (1.30 to 1.00 or greater), which is based on our net operating income attributable to the borrowing base properties.

In December 2010, we repaid \$50.0 million outstanding under the 2008 amended senior secured term facility (the 2008 Term Loan ) in full and there was no amount outstanding as of December 31, 2010.

The Credit Facility and the Term Loan have the following financial covenants as of December 31, 2011 (dollars in thousands):

| Financial Covenant  | September 30,<br>Compliance as of<br>December 31, 2011 |
|---|--|
| Maximum total leverage ratio (0.65 to 1.00 through March 31, 2013, and 0.60 to 1.00 thereafter)                         | 0.53 to 1.00   |
| Maximum secured recourse indebtedness ratio (0.15 to 1.00)  | 0.06 to 1.00   |
| Minimum fixed charge coverage ratio (1.35 to 1.00 through March 31, 2012, and 1.50 to 1.00 thereafter)                  | 1.44 to 1.00   |
| Minimum consolidated tangible net worth (\$237,106 plus 80% of the net proceeds of equity issuance after March 1, 2011) | \$ 280,161   |
| Minimum facility interest coverage ratio (1.50 to 1.00)   | 5.32 to 1.00   |

As of December 31, 2011, we believe that we were in compliance with all of our debt covenants.

The financial covenants related to our Credit Facility and our Term Loan Facility require a minimum fixed charge coverage ratio (ratio of adjusted consolidated earnings before interest taxes and depreciation for a trailing 12 month period, as defined in the facilities, to fixed charges, representing interest, scheduled principal payments and preferred dividends) of 1.35 to 1.00 through March 31, 2012, and 1.50 to 1.00 beginning April 1, 2012 through the initial maturity of the facilities. As of December 31, 2011, our ratio for this covenant was 1.44 to 1.00. Should our ratio for this covenant fall below 1.35 to 1.00 for the first quarter of 2012 or below 1.50 to 1.00 for quarters subsequent to first quarter 2012, then we will be in default on the facilities' agreements and may be required to repay the outstanding balances or pay a default rate interest rate.

As discussed in Note 2 to our consolidated financial statements, in the event that the Company Merger is not completed, we may not remain in compliance with the minimum fixed charge coverage ratio and then we would be in default under the agreements for the Credit Facility and the Term Loan Facility and may be required to repay the outstanding balances. This condition raises substantial doubt about our ability to continue as a going concern, and our independent registered public accounting firm has included an explanatory paragraph in its audit report about our ability to continue as a going concern. As of March 27, 2012, we entered into Amendment and Waiver Agreements with respect to both the Credit Facility and the Term Loan Facility to, among other things, extend the time for delivery to our lenders of our audited financial statements with an unqualified opinion until April 20, 2012. If we do not close the Company Merger and the Loans are not repaid and we are not able to deliver audited financial statements with an unqualified opinion by April 20, 2012, we will be in default under both our Credit Facility and our Term Loan Facility.

**Short-Term Liquidity Needs**

We believe that we will have sufficient capital resources as a result of operations and the borrowings in place to fund ongoing operations and distributions required to maintain REIT compliance. We anticipate using our cash flow from continuing operations, cash and cash equivalents, and Credit Facility availability to fund our business operations, cash dividends and distributions, debt amortization, and recurring capital expenditures. Capital requirements for significant acquisitions and development projects may require funding from borrowings and/or equity offerings. If we are unable to fund future development projects with borrowings and/or equity offerings, then our Design-Build and Development segment could incur substantial losses as its pipeline of potential projects are mostly development projects that require our capital to fund.

As of December 31, 2011, we had \$21.5 million of principal and maturity payments related to mortgage notes payable due in 2012. The \$21.5 million is comprised of \$5.1 million for principal amortization and \$16.4 million for maturities. We believe we will be able to refinance or extend the remaining \$16.4 million of 2012 balloon maturities as a result of the current loan to value ratios at individual properties and preliminary discussions with lenders.

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As of December 31, 2011, we had no outstanding equity commitments to unconsolidated joint ventures formed prior to December 31, 2011.

On December 19, 2011, we announced that our Board of Directors had declared a quarterly dividend of \$0.10 per share and operating partnership unit that was paid in cash on January 19, 2012 to holders of record on December 27, 2011.

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On February 2, 2011, we announced that our Board of Directors had declared a quarterly dividend of \$0.531 per share on our Series A preferred shares for the period from December 1, 2011, to February 29, 2012.

### **Long-Term Liquidity Needs**

Our principal long-term liquidity needs consist primarily of new property development, property acquisitions, and principal payments under various mortgages and other credit facilities and non-recurring capital expenditures. We do not expect that our net cash provided by operations will be sufficient to meet all of these long-term liquidity needs. Instead, we expect to finance new property developments through cash equity capital together with construction loan proceeds, as well as through cash equity investments by our tenants or third parties. We intend to have construction financing agreements in place before construction begins on development projects. We expect to fund property acquisitions through a combination of borrowings under our Credit Facility, traditional secured mortgage financing, and equity offerings. In addition, we may use OP units issued by the Operating Partnership to acquire properties from existing owners seeking a tax deferred transaction.

Generally we continue to expect to meet long-term liquidity requirements through net cash provided by operations and through additional equity and debt financings, including loans from banks, institutional investors or other lenders, bridge loans, letters of credit, and other lending arrangements, most of which will be secured by mortgages. We may also issue unsecured debt in the future. We do not, in general, expect to meet our long-term liquidity needs through dispositions of our properties. In the event that we were to sell any of our properties in the future, depending on which property were to be sold, we may need to structure the sale or disposition as a tax deferred transaction which would require the reinvestment of the proceeds from such transaction in another property or the proceeds that would be available from such sales may be reduced by amounts that we may owe under the tax protection agreements entered into in connection with our formation transactions and certain property acquisitions. In addition, our ability to sell certain of our assets could be adversely affected by the general illiquidity of real estate assets and certain additional factors particular to our portfolio such as the specialized nature of its target property type, property use restrictions and the need to obtain consents or waivers of rights of first refusal or rights of first offers from ground lessors in the case of sales of its properties that are subject to ground leases.

We intend to repay indebtedness incurred under our Credit Facility from time to time, for acquisitions or otherwise, out of cash flow from operations and from the proceeds, to the extent possible and desirable, of additional debt or equity issuances. In the future, we may seek to increase the amount of the Credit Facility, negotiate additional credit facilities or issue corporate debt instruments. Any indebtedness incurred or issued may be secured or unsecured, short-, medium- or long-term, fixed or variable interest rate and may be subject to other terms and conditions we deem acceptable. We generally intend to refinance at maturity the mortgage notes payable that have balloon payments at maturity.

### **Contractual Obligations**

The following table summarizes the Company's contractual obligations as of December 31, 2011, including the maturities and scheduled principal repayments and the commitments due in connection with the Company's ground leases and operating leases for the periods indicated (in thousands):

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|   | September 30,<br>2012 | September 30,<br>2013 to<br>2014 | September 30,<br>2015 to<br>2016 | September 30,<br>After 2017 | September 30,<br>Total |
|---|-----------------------|----------------------------------|----------------------------------|-----------------------------|------------------------|
| <b>Obligation:</b>  |                       |                                  |                                  |                             |                        |
| Long-term debt principal payments and maturities <sup>(1)</sup> | \$ 21,516             | \$ 274,391                       | \$ 44,735                        | \$ 112,952                  | \$ 453,594             |
| Standby letters of credit <sup>(2)</sup>                        | 7,954                 |                                  |                                  |                             | 7,954                  |
| Interest payments <sup>(3)</sup>                                | 20,581                | 31,561                           | 14,150                           | 7,250                       | 73,542                 |
| <b>Purchase commitments <sup>(4)</sup></b>                      |                       |                                  |                                  |                             |                        |
| Ground and air rights leases <sup>(5)</sup>                     | 607                   | 1,326                            | 1,328                            | 25,246                      | 28,507                 |
| Operating leases <sup>(6)</sup>                                 | 4,712                 | 7,861                            | 6,597                            | 17,217                      | 36,387                 |
| <b>Total</b>  | <b>\$ 55,370</b>      | <b>\$ 315,139</b>                | <b>\$ 66,810</b>                 | <b>\$ 162,665</b>           | <b>\$ 599,984</b>      |

<sup>(1)</sup> Includes notes payable under the Company's Credit Facility, excludes unamortized premium

<sup>(2)</sup> As collateral for performance, the Company is contingently liable under standby letters of credit, which also reduces the availability under the Credit Facility

<sup>(3)</sup> Assumes one-month LIBOR of 0.295% and Prime Rate of 3.25% which were the rates as of December 31, 2011 and includes fixed rate interest swap agreements.

<sup>(4)</sup> These purchase commitments are related to the Company's development projects that are currently under construction.

<sup>(5)</sup> Substantially all of the ground and air rights leases effectively limit our control over various aspects of the operation of the applicable property, restrict our ability to transfer the property and allow the lessor the right of first refusal to purchase the building and improvements. All of the ground and air rights leases provide for the property to revert to the lessor for no consideration upon the expiration or earlier termination of the ground or air rights lease.

<sup>(6)</sup> Payments under operating lease agreements relate to various of our properties' equipment and office space leases. The future minimum lease commitments under these leases are as indicated.

For additional information, see Notes 10 and 12 in the accompanying Notes to Consolidated Financial Statements in this Form 10-K.

**Warranties**

We provide standard industry warranties in our design-build business, which generally are for one year after completion of a project. Buildings are guaranteed against defects in workmanship for one year after completion. The typical warranty requires that we replace or repair the defective item. We record an estimate for future warranty related costs based on actual historical warranty claims. This estimated liability is included in Other liabilities in the consolidated balance sheets. Based on analysis of warranty costs, the warranty provisions are adjusted as necessary. While warranty costs have historically been within calculated expectations, it is possible that future warranty costs could exceed expectations.

The changes in the carrying amounts of the total warranty liabilities for the periods shown are as follows (in thousands):



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|                                    | September 30,<br>For the Year Ended<br>December 31,<br>2011 | September 30,<br>For the Year Ended<br>December 31,<br>2010 | September 30,<br>For the Year Ended<br>December 31,<br>2009 |
|------------------------------------|---|---|---|
| Balance at the beginning of period | \$ 980  | \$ 1,500  | \$ 4,331  |
| Accruals                           | 619   | 1,187   | (218)   |
| Settlements                        | (579)   | (1,707)   | (2,613)   |
| Balance at the end of period       | \$ 1,020  | \$ 980  | \$ 1,500  |

**Off-Balance Sheet Arrangements**

We may guarantee debt in connection with certain of our development activities, including joint ventures, from time to time. As of December 31, 2011, we did not have any such guarantees or other off-balance sheet arrangements outstanding.

**Real Estate Taxes**

Our leases generally require the tenants to be responsible for all real estate taxes.

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### **Inflation**

Our leases at wholly-owned and consolidated partnership properties generally provide for either indexed escalators, based on the CPI or other measures or, to a lesser extent, fixed increases in base rents. The leases also contain provisions under which the tenants reimburse us for a portion of property operating expenses and real estate taxes. Our property management and related services provided to third parties typically provide for fees based on a percentage of revenues for the month as defined in the related property management agreements. The revenues collected from leases are generally structured as described above, with year over year increases. We also pay certain payroll and related costs related to the operations of third party properties that we manage. Under terms of the related management agreements, these costs are reimbursed by the third party property owners. We believe that inflationary increases in expenses will be offset, in part, by the contractual rent increases and tenant expense reimbursements described above.

### **Seasonality**

Business under the Design-Build and Development segment can be subject to seasonality due to weather conditions at construction sites. In addition, construction starts and contract signings can be impacted by the timing of budget cycles at healthcare systems and providers.

### **Recent Accounting Pronouncements**

In May 2011, the Financial Accounting Standards Board ( FASB ) issued an accounting standard update, codified in Accounting Standards Codification ( ASC ) 820, Fair Value Measurement, which increases the disclosures around assets and liabilities measured at fair value. Entities will be required to disclose any significant transfers between Levels 1 and 2 of the fair value hierarchy, provide additional quantitative and qualitative information regarding fair value measurements categorized as Level 3 of the fair value hierarchy, and include the hierarchy classification for items whose fair value is not recorded on their consolidated balance sheets but are disclosed in their notes. This will become effective for fiscal years beginning after December 15, 2011. We have not yet adopted this accounting standard update and do not expect it to have a material impact on our consolidated financial statements.

In June 2011, the FASB issued an accounting standard update, codified in ASC 220, Comprehensive Income, which changes the presentation of comprehensive income. Entities will have the option to present the total of comprehensive income, the components of net income, and the components of other comprehensive income either in a single continuous statement of comprehensive income or in two separate but consecutive statements. In both instances, an entity is required to present each component of net income along with total net income, each component of other comprehensive income along with a total for other comprehensive income, and a total amount for comprehensive income. This update eliminates the option to present the components of other comprehensive income as part of the statement of changes in stockholders' equity. The amendments in this update do not change the items that must be reported in other comprehensive income or when an item of other comprehensive income must be reclassified to net income. This will become effective for fiscal years beginning after December 15, 2011. We have not yet adopted this accounting standard update and do not expect it to have a material impact on our consolidated financial statements.

In September 2011, the FASB issued an accounting standards update, codified in ASC 350, Intangibles-Goodwill and Other. While this amendment does not change the calculation of goodwill impairment, it simplifies how companies test goodwill for impairment. Under this amendment, a company would be permitted to first assess qualitative factors to determine whether it is more likely than not that the fair value of a reporting unit is less than its carrying amount. If the fair value of a reporting unit is more than the carrying account, it is not necessary to perform the two-step goodwill impairment test described in ASC 350. The more-likely-than-not threshold is defined as having a likelihood of more than 50 percent. This will become effective for fiscal years beginning after December 15, 2011. We have not yet adopted this accounting standard update and do not expect it to have a material impact on our consolidated financial statements.

### **Item 7A. *Quantitative and Qualitative Disclosure About Market Risk***

Our future income, cash flows and fair values relevant to financial instruments are dependent upon prevalent market interest rates. Market risk refers to the risk of loss from adverse changes in market prices and interest rates. We use some derivative financial instruments to manage, or hedge, interest rate risks related to our borrowings. We do not use derivatives for trading or speculative purposes and only enter into contracts with major financial institutions based on their credit rating and other factors.

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As of December 31, 2011, we had \$453.6 million of consolidated debt outstanding (excluding any discounts or premiums related to assumed debt). Of our total consolidated debt, \$215.4 million, or 47.5%, was variable rate debt that is not subject to variable to fixed rate interest rate swap agreements. Of our total indebtedness, \$238.2 million, or 52.5%, was subject to fixed interest rates, including variable rate debt that is subject to variable to fixed rate swap agreements. The weighted average interest rate for fixed rate debt was 6.24% as of December 31, 2011.

If LIBOR were to increase by 100 basis points, the increase in interest expense on our variable rate debt would decrease future earnings and cash flows by approximately \$2.2 million. Interest rate risk amounts were determined by considering the impact of hypothetical interest rates on our financial instruments. These analyses do not consider the effect of any change in overall economic activity that could occur in that environment. Further, in the event of a change of that magnitude, we may take actions to further mitigate our exposure to the change. However, due to the uncertainty of the specific actions that would be taken and their possible effects, these analyses assume no changes in our financial structure.

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**Item 8. Financial Statements and Supplementary Data**

**COGDELL SPENCER INC.**

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REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors and Stockholders of

Cogdell Spencer Inc.

Charlotte, North Carolina

We have audited the accompanying consolidated balance sheets of Cogdell Spencer Inc. and subsidiaries (the "Company") as of December 31, 2011 and 2010, and the related consolidated statements of operations, equity, and cash flows for each of the three years in the period ended December 31, 2011. Our audits also included the financial statement schedule listed in the Index at Item 8. These financial statements and the financial statement schedule are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, such consolidated financial statements present fairly, in all material respects, the financial position of Cogdell Spencer Inc. and subsidiaries at December 31, 2011 and 2010, and the results of their operations and their cash flows for each of the three years in the period ended December 31, 2011, in conformity with accounting principles generally accepted in the United States of America. Also, in our opinion, such financial statement schedule, when considered in relation to the basic consolidated financial statements taken as a whole, presents fairly, in all material respects, the information set forth therein.

The accompanying consolidated financial statements have been prepared assuming that the Company will continue as a going concern. As discussed in Note 2 to the consolidated financial statements, in the event the transactions described below do not occur, the Company may not remain in compliance with its required fixed charge coverage ratio related to its secured revolving credit facility and its secured term loan facility and then would be in default under the facilities' agreements and may be required to repay the outstanding balances. This condition raises substantial doubt about the Company's ability to continue as a going concern. Management's plans concerning these matters are also described in Note 2 to the consolidated financial statements. The consolidated financial statements do not include any adjustments that might result from the outcome of this uncertainty.

As discussed in Note 3 to the consolidated financial statements, on December 24, 2011 the Company entered into an Agreement and Plan of Merger, which would result in all outstanding shares of common and preferred stock being immediately cancelled and converted to the right to receive cash, and a separate agreement for the sale of its design-build business. The completion of each of the transactions is contingent on the other transaction occurring.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the Company's internal control over financial reporting as of December 31, 2011, based the criteria established in Internal Control - Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission, and our report dated March 30, 2012 expressed an unqualified opinion on the Company's internal control over financial reporting.

*/s/ DELOITTE & TOUCHE LLP*

McLean, Virginia

March 30, 2012

**Table of Contents****COGDELL SPENCER INC.****CONSOLIDATED BALANCE SHEETS****(in thousands, except per share amounts)**

|   | <b>September 30,<br/>December 31,<br/>2011</b> | <b>September 30,<br/>December 31,<br/>2010</b> |
|---|--|--|
| <b>Assets</b>   |  |  |
| Real estate properties:   |  |  |
| Land  | \$ 44,833                                      | \$ 37,269                                      |
| Buildings and improvements  | 695,994  | 597,022  |
| Less: Accumulated depreciation  | (146,523)                                      | (119,141)                                      |
| Net operating real estate properties  | 594,304  | 515,150  |
| Construction in progress  | 12,257   | 22,243   |
| Net real estate properties  | 606,561  | 537,393  |
| Cash and cash equivalents   | 16,729   | 12,203   |
| Restricted cash   | 2,436  | 6,794  |
| Tenant and accounts receivable, net of allowance of \$3,180 in 2011 and \$3,010 in 2010   | 19,981   | 11,383   |
| Goodwill  |  | 22,882   |
| Intangible assets, net of accumulated amortization of \$38,563 in 2011 and \$49,287 in 2010   | 19,290   | 18,601   |
| Other assets  | 27,107   | 23,684   |
| <b>Total assets</b>   | <b>\$ 692,104</b>                              | <b>\$ 632,940</b>                              |
| <b>Liabilities and equity</b>   |  |  |
| Mortgage notes payable  | \$ 277,834                                     | \$ 317,303                                     |
| Term loan   | 80,800   |  |
| Revolving credit facility   | 95,000   | 45,000   |
| Accounts payable  | 16,101   | 11,368   |
| Other liabilities   | 60,109   | 41,749   |
| Total liabilities   | 529,844  | 415,420  |
| Commitments and contingencies   |  |  |
| Equity:   |  |  |
| Cogdell Spencer Inc. stockholders' equity:  |  |  |
| Preferred stock, \$0.01 par value; 50,000 shares authorized:<br>8.5000% Series A Cumulative Redeemable Perpetual Preferred Shares (liquidation preference<br>\$25.00 per share), 2,940 and 2,600 shares issued and outstanding in 2011 and 2010, respectively | \$ 73,500                                      | \$ 65,000                                      |
| Common stock, \$0.01 par value; 200,000 shares authorized, 51,157 and 50,870 shares issued and<br>outstanding in 2011 and 2010, respectively  | 512  | 509  |
| Additional paid-in capital  | 419,559  | 417,960  |
| Accumulated other comprehensive loss  | (5,714)  | (3,339)  |
| Accumulated deficit   | (344,986)                                      | (287,798)                                      |
| Total Cogdell Spencer Inc. stockholders' equity   | 142,871  | 192,332  |
| Noncontrolling interests:   |  |  |
| Real estate partnerships  | 9,332  | 6,452  |
| Operating partnership   | 10,057   | 18,736   |

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|                                     |                   |                   |
|-------------------------------------|-------------------|-------------------|
| Total noncontrolling interests      | 19,389            | 25,188            |
| <b>Total equity</b>                 | <b>162,260</b>    | <b>217,520</b>    |
| <b>Total liabilities and equity</b> | <b>\$ 692,104</b> | <b>\$ 632,940</b> |

See notes to consolidated financial statements.

**Table of Contents****COGDELL SPENCER INC.****CONSOLIDATED STATEMENTS OF OPERATIONS**

(in thousands, except per share amounts)

|  | September 30,<br>For the Year Ended<br>December 31,<br>2011 | September 30,<br>For the Year Ended<br>December 31,<br>2010 | September 30,<br>For the Year Ended<br>December 31,<br>2009 |
|--|---|---|---|
| <b>Revenues:</b>   |   |   |   |
| Rental revenue   | \$ 96,253   | \$ 87,803   | \$ 79,486   |
| Design-Build contract revenue and other sales  | 79,019  | 91,256  | 143,416   |
| Property management and other fees   | 3,143   | 3,212   | 3,336   |
| Development management and other income  | 122   | 146   | 3,363   |
| <b>Total revenues</b>  | <b>178,537</b>  | <b>182,417</b>  | <b>229,601</b>  |
| <b>Expenses:</b>   |   |   |   |
| Property operating and management  | 38,861  | 33,664  | 31,810  |
| Design-Build contracts and development management  | 69,704  | 72,001  | 113,961   |
| Selling, general, and administrative   | 24,841  | 30,411  | 32,285  |
| Depreciation and amortization  | 33,292  | 32,841  | 34,502  |
| Impairment charges   | 26,885  | 127,041   | 120,920   |
| <b>Total expenses</b>  | <b>193,583</b>  | <b>295,958</b>  | <b>333,478</b>  |
| Loss from continuing operations before other income (expense) and income tax benefit (expense) | (15,046)  | (113,541)   | (103,877)   |
| <b>Other income (expense):</b>   |   |   |   |
| Interest and other income  | 1,288   | 655   | 620   |
| Gain on settlement from MEA Holdings, Inc. transaction   |   |   | 4,905   |
| Interest expense   | (21,287)  | (21,994)  | (21,711)  |
| Debt extinguishment and interest rate derivative expense                                       |   | (371)   | (2,511)   |
| Equity in earnings of unconsolidated real estate partnerships                                  | 21  | 13  | 15  |
| <b>Total other income (expense)</b>  | <b>(19,978)</b>   | <b>(21,697)</b>   | <b>(18,682)</b>   |
| Loss from continuing operations before income tax benefit (expense)                            | (35,024)  | (135,238)   | (122,559)   |
| Income tax benefit (expense)   | (75)  | 16,352  | 22,124  |
| <b>Loss from continuing operations</b>   | <b>(35,099)</b>   | <b>(118,886)</b>  | <b>(100,435)</b>  |
| <b>Discontinued operations:</b>  |   |   |   |
| Income (loss) from discontinued operations   |   | 6   | (168)   |
| Impairment of real estate property   |   |   | (1,359)   |
| Gain on sale of discontinued operations  |   | 264   |   |
| <b>Total discontinued operations</b>   |   | <b>270</b>  | <b>(1,527)</b>  |
| <b>Net loss</b>  | <b>(35,099)</b>   | <b>(118,616)</b>  | <b>(101,962)</b>  |
| Net income attributable to the noncontrolling interests in real estate partnerships            | (1,047)   | (831)   | (288)   |



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|   |             |              |             |
|---|-------------|--------------|-------------|
| Net loss attributable to the noncontrolling interests in operating partnership                      | 5,433       | 15,566       | 32,522      |
| Dividends on preferred stock  | (6,248)     | (208)        |             |
|   |             |              |             |
| Net loss attributable to Cogdell Spencer Inc. common shareholders                                   | \$ (36,961) | \$ (104,089) | \$ (69,728) |
|   |             |              |             |
| Per share data - basic and diluted  |             |              |             |
| Loss from continuing operations attributable to Cogdell Spencer Inc. common shareholders            | \$ (0.72)   | \$ (2.20)    | \$ (2.10)   |
| Income (loss) from discontinued operations attributable to Cogdell Spencer Inc. common shareholders |             |              | (0.04)      |
|   |             |              |             |
| Net loss per common share available to Cogdell Spencer Inc. common shareholders                     | \$ (0.72)   | \$ (2.20)    | \$ (2.14)   |
|   |             |              |             |
| Weighted average common shares - basic and diluted  | 51,068      | 47,456       | 32,655      |
|   |             |              |             |
| Net loss attributable to Cogdell Spencer Inc. common shareholders:                                  |             |              |             |
| Continuing operations, net of tax   | \$ (36,961) | \$ (104,321) | \$ (68,500) |
| Discontinued operations   |             | 232          | (1,228)     |
|   |             |              |             |
| Net loss attributable to Cogdell Spencer Inc. common shareholders                                   | \$ (36,961) | \$ (104,089) | \$ (69,728) |

See notes to consolidated financial statements.

**Table of Contents****COGDELL SPENCER INC.****CONSOLIDATED STATEMENTS OF EQUITY**

(in thousands)

|  | September 30,                     | September 30, | September 30, | September 30, | September 30,    | September 30, | September 30, | September 30,  | September 30,  |
|--|-----------------------------------|---------------|---------------|---------------|------------------|---------------|---------------|----------------|----------------|
|  | Cogdell Spencer Inc. Stockholders |               |               |               |                  |               |               |                |                |
|  | Total                             | Comprehensive | Accumulated   | Accumulated   | Series A         | Common        | Additional    | Noncontrolling | Noncontrolling |
|  | Equity                            | Loss          | Deficit       | Other         | Cumulative       | Stock         | Paid-in       | Interests in   | Interests in   |
|  |                                   |               |               | Income (Loss) | Redeemable       |               | Capital       | Operating      | Real Estate    |
|  |                                   |               |               |               | Perpetual        |               |               | Partnership    | Partnership    |
|  |                                   |               |               |               | Preferred Shares |               |               |                |                |
| Balance at January 1,  | 282,994                           |               | (77,438)      | (5,106)       |                  | 177           | 275,380       | 85,324         | 4              |
| Comprehensive income   | (101,962)                         | (101,962)     | (69,728)      |               |                  |               |               | (32,522)       |                |
| Realized and unrealized gains on investments, net of tax                           | 5,185                             | 5,185         |               | 3,760         |                  |               |               | 611            |                |
| Comprehensive income   | (96,777)                          | (96,777)      |               |               |                  |               |               |                |                |
| Issuance of common stock, net of costs   | 76,457                            |               |               |               |                  | 230           | 76,227        |                |                |
| Issuance of common stock in connection with partnership                            | 5,262                             |               |               |               |                  |               |               | 5,262          |                |
| Conversion of common stock to partnership  |                                   |               |               | (515)         |                  | 20            | 18,830        | (18,335)       |                |
| Restricted stock grants and LTIP   | 1,344                             |               |               |               |                  |               | 80            | 1,264          |                |
| Restriction of restricted stock grants   | 113                               |               |               |               |                  |               | 76            | 37             |                |
| Issuance of common stock in connection with contributions to controlling interests | (17,155)                          |               | (17,155)      |               |                  |               |               |                |                |
|  | (4,458)                           |               |               |               |                  |               |               | (3,919)        |                |
| Balance at December 31,  | 247,780                           |               | (164,321)     | (1,861)       |                  | 427           | 370,593       | 37,722         | 5              |
| Comprehensive income   | (118,616)                         | (118,616)     | (103,881)     |               |                  |               |               | (15,566)       |                |

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|   |                |                  |                |               |            |                |               |              |              |
|---|----------------|------------------|----------------|---------------|------------|----------------|---------------|--------------|--------------|
| Income  |                |                  |                |               |            |                |               |              |              |
| Realized loss on derivative financial instruments, net of tax | (2,328)        | (2,328)          | (1,387)        |               |            |                |               | (251)        |              |
| Comprehensive   | (120,944)      | (120,944)        |                |               |            |                |               |              |              |
| Change in fair value of restricted stock, net of costs        | 47,616         |                  |                |               | 72         |                | 47,544        |              |              |
| Change in fair value of restricted stock, net of costs        | 62,564         |                  | 65,000         |               |            |                | (2,436)       |              |              |
| Amortization of restricted stock                              | (133)          |                  | (4)            |               |            |                | (39)          | (90)         |              |
| Conversion of restricted stock to common stock                |                |                  | (87)           |               | 4          |                | 1,959         | (1,876)      |              |
| Share-based payments and LTIP grants                          | 2,038          |                  |                |               | 6          |                | 194           | 1,838        |              |
| Share-based payments - restricted grants                      | 145            |                  |                |               |            |                | 145           |              |              |
| Share-based payments on restricted stock                      | (19,388)       |                  | (19,388)       |               |            |                |               |              |              |
| Share-based payments on restricted stock                      | (208)          |                  | (208)          |               |            |                |               |              |              |
| Share-based payments - contributions to controlling interests | (4,326)        |                  |                |               |            |                |               | (3,041)      | (1,285)      |
| Share-based payments - contributed in real estate             | 2,376          |                  |                |               |            |                |               |              | 2,376        |
| <b>Income at December 31,</b>                                 | <b>217,520</b> | <b>(287,798)</b> | <b>(3,339)</b> | <b>65,000</b> | <b>509</b> | <b>417,960</b> | <b>18,736</b> | <b>6,669</b> | <b>6,669</b> |
| Comprehensive   |                |                  |                |               |            |                |               |              |              |
| Income  | (35,099)       | (35,099)         | (30,713)       |               |            |                |               | (5,433)      | (1,285)      |
| Realized loss on derivative financial instruments             | (3,633)        | (3,633)          | (2,323)        |               |            |                |               | (343)        |              |
| Comprehensive   | (38,732)       | (38,732)         |                |               |            |                |               |              |              |
| Change in fair value of restricted stock, net of costs        | 8,204          |                  | 8,500          |               |            |                | (296)         |              |              |
| Conversion of restricted stock to common stock                | 896            |                  | (52)           |               | 3          |                | 709           | (660)        |              |
|   |                |                  |                |               |            |                | 227           | 669          |              |

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|                               |            |              |            |           |        |            |           |         |  |   |
|-------------------------------|------------|--------------|------------|-----------|--------|------------|-----------|---------|--|---|
| ected<br>and LTIP<br>grants   |            |              |            |           |        |            |           |         |  |   |
| ization<br>stricted<br>grants | 37         |              |            |           |        |            | 37        |         |  |   |
| ends on<br>on stock           | (20,227)   | (20,227)     |            |           |        |            |           |         |  |   |
| ends on<br>red stock          | (6,248)    | (6,248)      |            |           |        |            |           |         |  |   |
| utions to<br>ntrolling<br>ts  | (3,674)    |              |            |           |        |            |           | (2,912) |  |   |
| buted<br>in real              |            |              |            |           |        |            |           |         |  |   |
| rship                         | 4,484      |              |            |           |        |            | 922       |         |  | 3 |
| <b>ce at<br/>ber 31,</b>      |            |              |            |           |        |            |           |         |  |   |
|                               | \$ 162,260 | \$ (344,986) | \$ (5,714) | \$ 73,500 | \$ 512 | \$ 419,559 | \$ 10,057 | \$      |  | 9 |

See notes to consolidated financial statements.

**Table of Contents****COGDELL SPENCER INC.****CONSOLIDATED STATEMENTS OF CASH FLOWS**

(in thousands)

|   | September 30,<br>For the Year Ended<br>December 31,<br>2011 | September 30,<br>For the Year Ended<br>December 31,<br>2010 | September 30,<br>For the Year Ended<br>December 31,<br>2009 |
|---|---|---|---|
| <b>Operating activities:</b>  |   |   |   |
| Net loss  | \$ (35,099)   | \$ (118,616)  | \$ (101,962)  |
| Adjustments to reconcile net loss to cash provided by operating activities:   |   |   |   |
| Depreciation and amortization (including amounts in discontinued operations)  | 33,292  | 32,841  | 34,502  |
| Amortization of acquired above market leases and acquired below market leases, net (including amounts in discontinued operations) | (416)   | (429)   | (542)   |
| Straight-line rental revenue  | (1,923)   | (1,206)   | (556)   |
| Amortization of deferred finance costs and debt premium   | 1,700   | 1,282   | 1,644   |
| Provision for bad debts   | 170   | 192   | 2,624   |
| Deferred income taxes   |   | (16,419)  | (18,614)  |
| Deferred tax expense (benefit) on intersegment profits  | 75  | 67  | (2,813)   |
| Equity-based compensation   | 933   | 1,878   | 1,300   |
| Equity in earnings of unconsolidated real estate partnerships   | (21)  | (13)  | (15)  |
| Debt extinguishment and interest rate derivative expense  |   | (264)   | 2,511   |
| Change in fair value of interest rate swap agreements   |   | (897)   | (757)   |
| Impairment of goodwill, trade names and trademarks, intangible assets, and property, plant, and equipment                         | 26,885  | 127,041   | 120,920   |
| Impairment of real estate property  |   |   | 1,359   |
| Gain on sale of real estate property  |   | (264)   |   |
| Gain on settlement from MEA Holdings, Inc. transaction  |   |   | (2,002)   |
| Changes in operating assets and liabilities:  |   |   |   |
| Tenant and accounts receivable and other assets   | (10,974)  | 2,203   | 32,118  |
| Accounts payable and other liabilities  | 17,502  | (8,641)   | (20,438)  |
| Billings in excess of costs and estimated earnings on uncompleted contracts   | (227)   | (11,259)  | (3,836)   |
| Net cash provided by operating activities   | 31,897  | 7,496   | 45,443  |
| <b>Investing activities:</b>  |   |   |   |
| Business acquisitions, net of cash acquired   |   |   | (8,022)   |
| Investment in real estate properties, net of cash acquired  | (99,772)  | (42,914)  | (54,572)  |
| Proceeds from sales-type capital lease  | 306   | 306   | 306   |
| Proceeds from the disposal of discontinued operations   |   | 2,481   |   |
| Purchase of corporate property, plant and equipment   | (1,679)   | (360)   | (1,830)   |
| Distributions received from unconsolidated real estate partnerships   | 7   | 7   | 6   |
| Decrease (increase) in restricted cash  | 4,358   | (3,734)   | 9,899   |
| Net cash used in investing activities   | (96,780)  | (44,214)  | (54,213)  |
| <b>Financing activities:</b>  |   |   |   |
| Proceeds from mortgage notes payable  | 23,842  | 48,766  | 73,222  |
| Repayments of mortgage notes payable  | (63,286)  | (30,130)  | (30,813)  |
| Proceeds from revolving credit facility   | 74,513  | 14,000  | 3,500   |
| Repayments to revolving credit facility   | (24,513)  | (49,000)  | (48,000)  |
| Proceeds from term loan   | 80,800  |   |   |
| Repayment of term loan  |   | (50,000)  | (50,000)  |
| Net proceeds from sale of common stock  |   | 47,616  | 76,457  |
| Net proceeds from sale of preferred stock   | 8,204   | 62,564  |   |

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|   |               |               |           |  |
|---|---------------|---------------|-----------|--|
| Redemptions of noncontrolling interests in operating partnership          |               | (133)         |           |  |
| Dividends on common stock   | (20,263)      | (18,600)      | (16,874)  |  |
| Dividends on preferred stock  | (5,918)       |               |           |  |
| Distributions to noncontrolling interest in the Operating Partnership     | (2,983)       | (2,265)       | (5,261)   |  |
| Distributions to noncontrolling interest in real estate partnerships      | (762)         | (1,285)       | (539)     |  |
| Equity contributions by partners in consolidated real estate partnerships | 4,484         | 2,376         |           |  |
| Payment of financing costs  | (4,709)       | (902)         | (1,676)   |  |
| <b>Net cash provided by financing activities</b>                          | <b>69,409</b> | <b>23,007</b> | <b>16</b> |  |
| <br>  |               |               |           |  |
| Increase (decrease) in cash and cash equivalents                          | 4,526         | (13,711)      | (8,754)   |  |
| Balance at beginning of period  | 12,203        | 25,914        | 34,668    |  |
| <br>  |               |               |           |  |
| Balance at end of period  | \$ 16,729     | \$ 12,203     | \$ 25,914 |  |
| <br>  |               |               |           |  |
| <b>Supplemental disclosure of cash flow information:</b>                  |               |               |           |  |
| Cash paid for interest, net of capitalized interest                       | \$ 20,853     | \$ 22,247     | \$ 21,998 |  |
| <br>  |               |               |           |  |
| Cash paid for income taxes  | \$ 12         | \$ 37         | \$ 37     |  |

**Table of Contents****COGDELL SPENCER INC.****CONSOLIDATED STATEMENTS OF CASH FLOWS (CONTINUED)**

(in thousands)

**CONSOLIDATED STATEMENTS OF CASH FLOWS**

|   | <b>September 30,<br/>For the Year Ended<br/>December 31,<br/>2011</b> | <b>September 30,<br/>For the Year Ended<br/>December 31,<br/>2010</b> | <b>September 30,<br/>For the Year Ended<br/>December 31,<br/>2009</b> |
|---|---|---|---|
| <b>Non-cash investing and financing activities:</b>                                     |   |   |   |
| Investment in real estate properties included in accounts payable and other liabilities | \$ (1,758)  | \$ (319)  | \$ (4,490)  |
| Mortgage note payable assumed with purchase of real estate property                     |   | 15,580  |   |
| Accrued dividends and distributions   | 6,341   | 6,047   | 5,051   |
| Operating Partnership Units converted into common stock                                 | 712   | 1,963   | 18,850  |
| Equity-based compensation capitalized in real estate properties                         | 270   | 305   |   |

See notes to consolidated financial statements.

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**COGDELL SPENCER INC.**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

**1. Business**

Cogdell Spencer Inc., incorporated in Maryland in 2005, together with its consolidated subsidiaries, is a real estate investment trust ( REIT ) focused on planning, owning, developing, constructing, and managing healthcare facilities. Through strategically managed, customized facilities, we help our customers deliver superior healthcare. We operate our business through Cogdell Spencer LP, our operating partnership subsidiary (the Operating Partnership ), and our subsidiaries. All references to we, us, our, the Company, and Cogdell Spencer refer to Spencer Inc. and our other consolidated subsidiaries, including the Operating Partnership.

We have two segments: (1) Property Operations and (2) Design-Build and Development. Property Operations owns and manages our properties and manages properties for third parties. Design-Build and Development provides strategic planning, design, construction, development, and project management services for properties owned by the Company and for third parties.

**2. Summary of Significant Accounting Policies**

***Basis of Presentation***

The accompanying consolidated financial statements have been prepared in conformity with accounting principles generally accepted in the United States of America ( GAAP ) and represent our assets and liabilities and operating results. The consolidated financial statements include our accounts and our wholly-owned subsidiaries as well as our Operating Partnership and its subsidiaries. The consolidated financial statements also include any partnerships for which we or our subsidiaries are the general partner or the managing member and the rights of the limited partners do not overcome the presumption of control by the general partner or managing member. We review our interests in entities to determine if the entity s assets, liabilities, noncontrolling interests and results of activities should be included in the consolidated financial statements. All significant intercompany balances and transactions have been eliminated in consolidation.

The accompanying consolidated financial statements have been prepared on the basis of the Company continuing as a going concern. As discussed in Note 10, the financial covenants related to our secured revolving credit facility and our secured term loan facility require a minimum fixed charge coverage ratio of 1.50 to 1.00 beginning April 1, 2012 through the initial maturity of the facilities. Due to the continued decline in the operations of our Design-Build and Development segment we may not remain in compliance with the required fixed charge coverage ratio and then would be in default under the facilities agreements and may be required to repay the outstanding balances. This condition raises substantial doubt about the Company s ability to continue as a going concern and, therefore, the Company may be unable to realize its assets and discharge its liabilities in the normal course of business.

As discussed in Note 3, we expect the Mergers to close in the second quarter of 2012; however there can be no assurances that the Mergers will close. We believe that in the event the Mergers were to fail to close that we will successfully negotiate terms with the lenders to avoid a default under the facilities, however there can be no assurances that such negotiations will be successful. As a result, the consolidated financial statements do not include any adjustments to reflect the possible effects on the recoverability of assets or the amounts of liabilities that may result from the resolution of the uncertainty about the Company s ability to continue as a going concern.

***Use of Estimates in Financial Statements***

The preparation of financial statements in conformity with GAAP requires us to make estimates and assumptions that affect amounts reported in the financial statements and accompanying notes. Significant estimates and assumptions used include determining the useful lives of real estate properties and improvements, initial valuations and underlying allocations of the purchase price in connection with business and real estate property acquisitions, percentage of completion revenue, construction contingencies and loss provisions, bad debt reserves, deferred tax asset valuation allowance, and projected cash flows and fair value estimates used for impairment testing. Actual results may differ from those estimates.

***Revenue Recognition***

We derive the majority of our revenues from two main sources: 1) rents received from tenants under existing leases in healthcare facilities, and 2) revenue earned from design-build construction contracts and development contracts.



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*Rental Revenue and Property Management.* Rental income related to non-cancelable operating leases is recognized as earned on a straight-line basis over the lease term, the period from the date the tenant has access and control over the leased space to the lease termination date. Rental income recognized on a straight-line basis may result in recognized revenue greater than or less than amounts contractually due from tenants for certain lease agreements, such as agreements with escalating rent payments. In addition, we may receive cash payments at the inception of a lease for tenant improvements. These amounts are included in *Other liabilities* in the consolidated balance sheets and are amortized into rental revenue over the lease term. Our leases generally contain provisions under which the tenants reimburse us for a portion of property operating expenses and real estate taxes. We monitor the creditworthiness of our tenants on a regular basis and maintain an allowance for doubtful accounts.

**Table of Contents****COGDELL SPENCER INC.****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

We receive fees for property management and related services provided to third parties which are reflected as property management fee revenue. Management fees are generally based on a percentage of revenues for the month as defined in the related property management agreements. We also pay certain payroll and related costs related to the operations of third party properties that we manage. Under terms of the related management agreements, these costs are reimbursed by the third party property owners and recognized by us as revenue as they are characterized by GAAP as out of pocket expenses incurred in the performance of a service.

*Design-Build Contract Revenue and Development Management.* Design-Build contract revenue is recognized under the percentage-of-completion method of accounting. Revenues are determined by measuring the percentage of costs incurred to date to estimated total costs for each design-build contract based on current estimates of costs to complete. Contract costs include all labor and benefits, materials, subcontracts, and an allocation of indirect costs related to contract performance such as architectural, engineering, and construction management. Indirect costs are allocated to projects based upon labor hours charged. As long-term design-build projects extend over one or more years, revisions in cost and estimated earnings during the course of the work are reflected in the accounting period in which the facts which require the revision become known. At the time a loss on a design-build project becomes known, the entire amount of the estimated ultimate loss is recognized in the consolidated financial statements. Change orders are recognized when they are approved by the client.

Costs and estimated earnings in excess of billings on uncompleted design-build projects ( underbillings ) are included in Other assets in the consolidated balance sheets. Billings in excess of costs and estimated earnings on uncompleted design-build projects ( overbillings ) are included in Other liabilities in the consolidated balance sheets. Customers are billed on a monthly basis at the end of each month, which can be in advance of work performed. As a result, we typically generate billings in excess of costs and estimated earnings on design-build projects.

Revenue from project analysis and design agreements is accounted for on the completed contract method. Costs in excess of billings and billings in excess of costs on project analysis and design agreements are included with design-build projects over and underbillings in the consolidated balance sheets. Revenue from development agreements is recognized as earned per the agreements and costs are expensed as incurred.

*Other income.* Other income on our statement of operations generally includes income incidental to our operations and is recognized when earned. Interest and other income includes the amortization of unearned income related to a sales-type capital lease.

**Warranties**

We provide standard industry warranties in our design-build business, which generally are for one year after completion of a project. Buildings are guaranteed against defects in workmanship for one year after completion. The typical warranty requires that we replace or repair the defective item. We record an estimate for future warranty related costs based on actual historical warranty claims. This estimated liability is included in Other liabilities in the consolidated balance sheets. Based on analysis of warranty costs, the warranty provisions are adjusted as necessary. While warranty costs have historically been within calculated expectations, it is possible that future warranty costs could exceed expectations.

The changes in the carrying amounts of the total warranty liabilities for the periods shown are as follows (in thousands):

|                                    | September 30,<br>December 31,<br>2011 | September 30,<br>For the Year Ended<br>December 31,<br>2010 | September 30,<br>December 31,<br>2009 |
|------------------------------------|---------------------------------------|---|---------------------------------------|
| Balance at the beginning of period | \$ 980                                | \$ 1,500  | \$ 4,331                              |
| Accruals                           | 619                                   | 1,187   | (218)                                 |
| Settlements                        | (579)                                 | (1,707)   | (2,613)                               |
| Balance at the end of period       | \$ 1,020                              | \$ 980  | \$ 1,500                              |



**Table of Contents****COGDELL SPENCER INC.****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS*****Income Taxes***

We elected to be taxed as a REIT under sections 856 through 860 of the Internal Revenue Code of 1986, as amended. REITs are subject to a number of organizational and operational requirements, including a requirement that 90% of ordinary REIT taxable income (as determined without regard to the dividends paid deduction or net capital gains) be distributed. As a REIT, we will generally not be subject to U.S. federal income tax to the extent that we meet the organizational and operational requirements and our distributions equal or exceed taxable income. For all periods subsequent to the REIT election, we have met the organizational and operational requirements and distributions have exceeded net taxable income. Accordingly, no provision has been made for federal and state income taxes, except as follows.

We have made the election to treat Cogdell Spencer TRS Holdings, LLC (TRS Holdings), our subsidiary which holds our design-build and development operations and our property management operations, as a taxable REIT subsidiary. As a taxable REIT subsidiary, the operations of TRS Holdings are generally subject to corporate income taxes. Our taxable REIT subsidiary accounts for its income taxes in accordance with GAAP, which includes an estimate of the amount of taxes payable or refundable for the current year and deferred tax liabilities and assets for the future tax consequences of events that have been recognized in our financial statements or tax returns. The calculation of the taxable REIT subsidiary's tax provision may require interpreting tax laws and regulations and could result in the use of judgments or estimates which could cause its recorded tax liability to differ from the actual amount due. Deferred income taxes reflect the net tax effects of temporary differences between the carrying amounts of assets and liabilities for financial reporting purposes and the amounts used for income tax purposes. The taxable REIT subsidiary periodically assesses the realizability of deferred tax assets and the adequacy of deferred tax liabilities, including the results of local, state, or federal statutory tax audits or estimates and judgments used.

We apply provisions for measuring and recognizing tax benefits associated with uncertain tax positions. Penalties and interest, if incurred, would be recorded as a component of income tax expense.

We defer income taxes paid on intercompany profits for real estate properties remaining on our consolidated balance sheet. Such taxes are presented with the related real estate property on the balance sheet, are amortized to income tax expense over the useful life of the related property, are assessed for impairment as part of the asset group and any remaining balance is removed from the balance sheet when the related property is removed. We did not defer income taxes paid on intercompany profits for real estate properties for the years ended December 31, 2011 and 2010.

***Comprehensive Income or Loss***

Comprehensive income or loss includes net income (loss) and all other non-owner changes in stockholders' equity during the period including unrealized fair value adjustments on certain derivative agreements.

***Cash and Cash Equivalents***

We consider all short-term investments with maturities of three months or less when purchased to be cash equivalents. Restricted cash and short-term investments are excluded from cash for the purpose of preparing the consolidated statements of cash flows. The following table shows the composition of cash and cash equivalents for the periods shown:

|   | September 30,<br>December 31,<br>2011 | September 30,<br>December 31,<br>2010 |
|---|---------------------------------------|---------------------------------------|
| Corporate cash and cash equivalents (available for general corporate purposes)  | \$ 10,912                             | \$ 10,561                             |
| Consolidated real estate partnership's cash and cash equivalents (available only for real estate partnership purposes, including distributions) | 5,817                                 | 1,642                                 |

|    |        |    |        |
|----|--------|----|--------|
| \$ | 16,729 | \$ | 12,203 |
|----|--------|----|--------|

***Restricted Cash***

Restricted cash includes escrow accounts held by lenders and banks. Restricted cash can also include proceeds from property sales deposited with a qualified intermediary in accordance with like-kind exchange income tax rules and regulations.

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**COGDELL SPENCER INC.**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

***Real Estate Properties and Related Intangible Assets***

Land and buildings and improvements are recorded at cost. For developed properties, direct and indirect costs that clearly relate to projects under development are capitalized. Costs include construction costs, professional services such as architectural and legal costs, travel expenses, capitalized interest and direct payroll and other acquisition costs. We begin capitalization when the project is probable. Capitalization of interest ceases when the property is ready for its intended use, which is generally near the date that a certificate of occupancy is obtained.

Depreciation and amortization are computed using the straight-line method for financial reporting purposes. Buildings and improvements are depreciated over 13 to 50 years. Tenant improvement costs, which are included in building and improvements in the consolidated balance sheets, are depreciated over the shorter of (i) the related remaining lease term or (ii) the life of the improvement. Corporate property, plant and equipment, which are included in Other assets, are depreciated over three to seven years.

Acquisitions of properties are accounted for utilizing the acquisition method and accordingly the purchase cost is allocated to tangible and intangible assets and liabilities based on their fair values. The fair value of tangible assets acquired is determined by valuing the property as if it were vacant, applying methods similar to those used by independent appraisers of income-producing property. The resulting value is then allocated to land, buildings and improvements, and tenant improvements based on our determination of the fair value of these assets. The assumptions used in the allocation of fair values to assets acquired are based on our best estimates at the time of evaluation.

Fair value is assigned to above-market and below-market leases based on the difference between (a) the contractual amounts to be paid by the tenant based on the existing lease and (b) our estimate of current market lease rates for the corresponding in-place leases, over the remaining terms of the in-place leases. Capitalized above-market lease amounts are amortized as a decrease to rental revenue over the remaining terms of the respective leases. Capitalized below-market lease amounts are amortized as an increase to rental revenue over the remaining terms of the respective leases. If a tenant vacates its space prior to the contractual termination of the lease and no rental payments are being made on the lease, any unamortized balance of the related intangible will be written off.

The aggregate value of other acquired intangible assets consists of acquired ground leases and acquired in-place leases and tenant relationships. The fair value allocated to acquired in-place leases consists of a variety of components including, but not necessarily limited to: (a) the value associated with avoiding the cost of originating the acquired in-place leases (i.e. the market cost to execute a lease, including leasing commissions and legal fees, if any); (b) the value associated with lost revenue related to tenant reimbursable operating costs estimated to be incurred during the assumed lease-up period (i.e. real estate taxes, insurance and other operating expenses); (c) the value associated with lost rental revenue from existing leases during the assumed lease-up period; and (d) the value associated with any other inducements to secure a tenant lease.

We assess the potential for impairment of our long-lived assets, including real estate properties, annually or whenever events occur or a change in circumstances indicate that the recorded value might not be fully recoverable. We determine whether impairment in value has occurred by comparing the estimated future undiscounted cash flows expected from the use and eventual disposition of the asset to its carrying value. If the undiscounted cash flows do not exceed the carrying value, the real estate is adjusted to fair value and an impairment loss is recognized. Assets held for sale are recorded at the lower of cost or fair value less costs to sell.

All operations and gains and losses associated with sales of real estate property or assets classified as held for sale are reclassified and presented as discontinued operations.

See Note 9 regarding the write-down of our long-lived assets to implied fair market value.

***Repairs, Maintenance and Major Improvements***

The costs of ordinary repairs and maintenance are charged to operations when incurred. Major improvements that enhance the value or extend the life of an asset are capitalized and depreciated over the remaining useful life of the asset. In some circumstances lenders require us to maintain a reserve account for future repairs and capital expenditures. These amounts are classified as restricted cash.



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**COGDELL SPENCER INC.**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

***Capitalization of Interest***

We capitalize interest costs on borrowings incurred during the construction and lease-up periods of qualifying assets. Capitalized interest is added to the cost of the underlying assets and is depreciated over the useful lives of the assets. For the years ended December 31, 2011, 2010, and 2009, we capitalized interest of approximately \$1.3 million, \$0.9 million, and \$1.0 million, respectively, in connection with various development projects.

***Tenant and Accounts Receivable***

Property Operations tenant and accounts receivable are recorded and carried at the amount billable per the applicable lease or contract agreement. Straight-line rent adjustments are included in Other assets in the consolidated balance sheets.

Design-Build and Development s accounts receivable are comprised primarily of contracts receivable. Contracts receivable from performing construction of healthcare facilities are recorded when invoiced and are based on contracted prices and billing terms. Normal contracts receivable are due 15 to 30 days after the issuance of the invoice. Contract retentions are due 15 to 30 days after completion of the project and acceptance by the owner. Receivables past due more than 180 days are considered delinquent. Delinquent receivables are written off based on individual credit evaluation and specific circumstances of the customer. As construction contracts are long term, a portion of the contract retention receivable balance will not be collected within the next year.

An allowance for uncollectible accounts is made based upon a review of outstanding receivables, historical collection information, existing economic conditions, and other factors that may indicate collection of the full amount is no longer considered probable.

***Investment in Capital Lease***

Investment in capital lease consists of a building on a sales-type capital lease. Unearned income is amortized into interest income using a method that is not materially different from a method that produces a constant periodic rate of return on the net investment in the lease. The interest income is recorded in Interest and other income in the consolidated statements of operations. The investment in capital lease is included in Other assets in the consolidated balance sheets.

***Deferred Financing Costs***

Deferred financing costs include fees and costs incurred in conjunction with long-term financings and are amortized over the terms of the related debt using the straight-line method, which approximates the effective interest method. Upon repayment of or in conjunction with a substantial modification in the terms of the underlying debt agreement, any unamortized costs are charged to earnings. Deferred financing costs were \$8.4 million, net of accumulated amortization of \$2.9 million, as of December 31, 2011 and \$7.1 million, net of accumulated amortization of \$4.4 million, as of December 31, 2010. Deferred financing costs are included in Other assets in the consolidated balance sheets.

***Unconsolidated Real Estate Partnerships***

We record investments in which we do not control but exercise significant influence under the equity method. In circumstances where the real estate partnerships have distributions in excess of the investment and accumulated earnings or experienced net losses in excess of the investment and we have guaranteed debt of the entity or otherwise intend to provide financial support, we have reduced the carrying value of our investment below zero and recorded a liability in Other liabilities in the consolidated balance sheets. Services performed for real estate joint ventures and capitalized by real estate joint ventures are recognized to the extent attributable to the outside interests in the real estate joint venture.



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**COGDELL SPENCER INC.**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

***Goodwill and Intangible Assets***

Goodwill is tested annually for impairment and is tested for impairment more frequently if events and circumstances indicate that the asset might be impaired. An impairment loss is recognized to the extent that the carrying amount, including goodwill, exceeds the reporting unit's fair value and the implied fair value of goodwill is less than the carrying amount of that goodwill. Non-amortizing intangible assets, such as trade names and trademarks, are subject to an annual impairment test based on fair value and amortizing intangible assets are tested whenever events or changes in circumstances indicate that the carrying amount may not be recoverable.

See Note 9 regarding the write-down of our goodwill and intangible assets related to the Design-Build and Development segment to zero.

***Fair Value of Financial Instruments***

Fair value is defined as the exchange price that would be received for certain assets or paid to transfer certain liabilities (an exit price) in the principal or most advantageous market for the certain asset or liability in an orderly transaction between market participants on the measurement date.

We utilize the fair value hierarchy which prioritizes the inputs to valuation techniques used to measure fair value into three broad levels. Fair values determined by Level 1 inputs utilize observable inputs such as quoted prices in active markets for identical assets or liabilities we have the ability to access. Fair values determined by Level 2 inputs utilize inputs other than quoted prices included in Level 1 that are observable for the asset or liability, either directly or indirectly. Level 2 inputs include quoted prices for similar assets and liabilities in active markets and inputs other than quoted prices observable for the asset or liability. Level 3 inputs are unobservable inputs for the asset or liability, and include situations where there is little, if any, market activity for the asset or liability. In instances in which the inputs used to measure fair value may fall into different levels of the fair value hierarchy, the level in the fair value hierarchy within which the fair value measurement in its entirety has been determined is based on the lowest level input significant to the fair value measurement in its entirety. Our assessment of the significance of a particular input to the fair value measurement in its entirety requires judgment, and considers factors specific to the asset or liability.

To obtain fair values, observable market prices are used if available. In some instances, observable market prices are not readily available for certain financial instruments and fair value is determined using present value or other techniques appropriate for a particular financial instrument. These techniques involve some degree of judgment and as a result are not necessarily indicative of the amounts we would realize in a current market exchange. The use of different assumptions or estimation techniques may have a material effect on the estimated fair value amounts.

We do not hold or issue financial instruments for trading purposes. We consider the carrying amounts of cash and cash equivalents, restricted cash, tenant and accounts receivable, accounts payable, and other liabilities to approximate fair value due to the short maturity of these instruments. We have estimated the fair value of debt utilizing present value techniques taking into consideration current market conditions. At December 31, 2011, the carrying amount and estimated fair value of debt was \$453.6 million and \$477.6 million, respectively. At December 31, 2010, the carrying amount and estimated fair value of debt was \$362.3 million and \$366.3 million, respectively.

See Note 9 regarding the write-down of our long-term assets to implied fair market value. See Note 11 regarding the fair value of our interest rate swap agreements.

***Offering Costs***

Underwriting commissions and other offering costs of raising equity are reflected as a reduction in additional paid-in capital.

***Share Based Compensation***

We measure share based compensation, including restricted stock grants and long-term incentive units ( LTIP units ) based on the estimated fair value of the award at the grant date, thus the share price of the common stock at the grant date. Where an observable market value of a similar

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instrument is not available, an option-pricing model is utilized. The compensation cost is recognized as an expense over the requisite service period required for vesting or when performance criteria for vesting is expected to be achieved.

**Table of Contents****COGDELL SPENCER INC.****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS*****Per Share Data***

Basic and diluted earnings per share are computed based upon the weighted average number of shares outstanding during the respective period.

***Concentrations and Credit Risk***

We maintain our cash in commercial banks. Balances on deposit are insured by the Federal Deposit Insurance Corporation ( FDIC ) up to specific limits. Balances on deposit in excess of FDIC limits are uninsured. At December 31, 2011, we had bank cash balances of \$1.3 million in excess of FDIC insured limits.

The following table shows our concentration of tenant and accounts receivable and tenant and customer revenues as of and for the year ended:

|   | <b>September 30,<br/>December 31,<br/>2011</b> | <b>September 30,<br/>December 31,<br/>2010</b> |
|---|--|--|
| Customer balances greater than 10% of tenants and accounts receivable   | Three  | One  |
| Customer revenues greater than 10% of total revenue   | One  | One  |
| Our consolidated wholly-owned and joint venture properties located in Georgia, North Carolina, and South Carolina, provided approximately 8.4%, 21.7% and 24.3%, respectively, of our total annualized rent for the year ended December 31, 2011. |  |  |

***Reclassifications***

During 2009, we reclassified Harbison Medical Office Building, a wholly-owned real estate property, as discontinued operations as the criteria for classification as held for sale had been met. As such, we reclassified the results of operations to Discontinued Operations for all periods presented in the Consolidated Financial Statements in this Form 10-K. In June 2010, we sold Harbison Medical Office Building.

***Recent Accounting Pronouncements***

In May 2011, the Financial Accounting Standards Board ( FASB ) issued an accounting standard update, codified in Accounting Standards Codification ( ASC ) 820, Fair Value Measurement, which increases the disclosures around assets and liabilities measured at fair value. Entities will be required to disclose any significant transfers between Levels 1 and 2 of the fair value hierarchy, provide additional quantitative and qualitative information regarding fair value measurements categorized as Level 3 of the fair value hierarchy, and include the hierarchy classification for items whose fair value is not recorded on their consolidated balance sheets but are disclosed in their notes. This will become effective for fiscal years beginning after December 15, 2011. We have not yet adopted this accounting standard update and do not expect it to have a material impact on our consolidated financial statements.

In June 2011, the FASB issued an accounting standard update, codified in ASC 220, Comprehensive Income, which changes the presentation of comprehensive income. Entities will have the option to present the total of comprehensive income, the components of net income, and the components of other comprehensive income either in a single continuous statement of comprehensive income or in two separate but consecutive statements. In both instances, an entity is required to present each component of net income along with total net income, each component of other comprehensive income along with a total for other comprehensive income, and a total amount for comprehensive income. This update eliminates the option to present the components of other comprehensive income as part of the statement of changes in stockholders' equity. The amendments in this update do not change the items that must be reported in other comprehensive income or when an item of other comprehensive income must be reclassified to net income. This will become effective for fiscal years beginning after December 15, 2011. We have not yet adopted this accounting standard update and do not expect it to have a material impact on our consolidated financial statements.

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In September 2011, the FASB issued an accounting standards update, codified in ASC 350, Intangibles-Goodwill and Other. While this amendment does not change the calculation of goodwill impairment, it simplifies how companies test goodwill for impairment. Under this amendment, a company would be permitted to first assess qualitative factors to determine whether it is more likely than not that the fair value of a reporting unit is less than its carrying amount. If the fair value of a reporting unit is more than the carrying account, it is not necessary to perform the two-step goodwill impairment test described in ASC 350. The more-likely-than-not threshold is defined as having a likelihood of more than 50 percent. This will become effective for fiscal years beginning after December 15, 2011. We have not yet adopted this accounting standard update and do not expect it to have a material impact on our consolidated financial statements.

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**COGDELL SPENCER INC.**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

***Subsequent Events***

In January 2012, Mr. David J. Lubar resigned from our Company's Board of Directors.

**3. Proposed Merger with Ventas; Sale of Erdman Business**

***Merger with Ventas***

On December 24, 2011, we entered into an Agreement and Plan of Merger (the "merger agreement") with our Operating Partnership, Ventas, Inc., a Delaware corporation ("Ventas"), TH Merger Corp, Inc., a Maryland corporation and Ventas' wholly-owned subsidiary ("MergerSub"), and TH Merger Sub, LLC, a Delaware limited liability company and Ventas' wholly owned subsidiary ("OP MergerSub"), and, together with Ventas and MergerSub, the "Purchaser Parties"). The merger agreement provides for the merger of us with MergerSub (the "Company Merger") and the merger of OP MergerSub with and into the OP (the "Partnership Merger" and, together with the Company Merger, the "Mergers").

At the effective time of the Company Merger, each share of our common stock that remains outstanding immediately prior to the effective time (other than shares of our common stock owned directly or indirectly, by us or any of our subsidiaries, Ventas, or MergerSub or any other direct or indirect subsidiary of Ventas (which shall be cancelled and retired and shall cease to exist and for which no consideration shall be delivered)) will be automatically cancelled and converted into the right to receive \$4.25 in cash (the "Per Share Consideration"), without interest.

At the effective time of the Company Merger, each share of our Series A Preferred Stock that remains outstanding immediately prior to the effective time (other than shares of Series A Preferred Stock owned, directly or indirectly, by us or any of our subsidiaries, Ventas, or MergerSub or any other direct or indirect subsidiary of Ventas (which shall be cancelled and retired and shall cease to exist and for which no consideration shall be delivered)) will be automatically cancelled and converted into the right to receive an amount in cash equal to \$25.00, plus all accrued and unpaid dividends thereon through and including the closing date of the Company Merger (the "Per Share Preferred Consideration"), without interest.

At the effective time of the Partnership Merger, each Operating Partnership unit ("OP Unit") issued and outstanding immediately prior to the effective time (other than OP Units owned directly or indirectly, by us or any of our wholly owned subsidiaries) will be automatically cancelled and converted into the right to receive Per Share Consideration.

Completion of the Company Merger was subject to the approval of the affirmative vote of the holders of not less than a majority of the outstanding shares of our common stock, which we received at a special stockholders meeting held on March 9, 2012.

Completion of the merger is also subject to certain other conditions, including completion of the transactions contemplated by the Stock Purchase Agreement, dated December 24, 2011 (the "Erdman purchase agreement") by and between Cogdell Spencer TRS Holdings, LLC ("TRS Holdings") and Madison DB Acquisition, LLC ("Madison DB") pursuant to which Madison DB will acquire all of the shares of our subsidiary, MEA Holdings, Inc. ("MEA"), which, together with its subsidiaries, engage in design-build and related development business under the Marshall Erdman name (the "Erdman business").

The merger agreement contains certain termination rights for us and Ventas. Upon termination of the merger agreement under specified circumstances, the parties may be required to pay the other party a termination fee. If we are required to pay a termination fee as a result of our entering into an alternative acquisition agreement or completing an alternative transaction, the amount of the termination fee is \$15 million plus reimbursement to Ventas for all reasonable out-of-pocket fees and expenses incurred by or on

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**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

behalf of Ventas in an amount equal to \$5 million. The merger agreement also provides that Ventas will be required to pay us a termination fee of \$15 million plus expense reimbursement equal to \$5 million if the merger agreement is terminated under certain circumstances because Ventas fails to complete the Company Merger or otherwise breaches its obligations under the merger agreement. In certain other termination scenarios, we may be obligated to reimburse Ventas for its reasonable out-of-pocket fees and expenses equal to \$5 million, but will not be required to pay Ventas the termination fee.

***Sale of Erdman Business***

As discussed above, on December 24, 2011, TRS Holdings entered into the Erdman purchase agreement with Madison DB pursuant to which Madison DB will acquire the Erdman business. TRS Holdings will, prior to closing, contribute \$11,720,000 (subject to certain adjustments) to MEA. TRS Holdings also has extinguished certain intercompany indebtedness of MEA. At closing, Madison DB will pay \$1.00 to TRS Holdings and will contribute \$11,720,000 (subject to certain adjustments) in working capital to MEA. Consummation of the transactions contemplated by the Erdman purchase agreement is subject to customary closing conditions, including satisfaction of all conditions to closing of the Mergers.

Mr. David Lubar, one of our former directors, is a principal of the investment fund that is providing Madison DB with its required equity funding. Mr. Lubar was excluded from, and did not participate in, deliberations of our Board of Directors regarding the merger agreement or the Erdman purchase agreement.

Our stockholders will not receive any consideration from the sale of MEA pursuant to the Erdman purchase agreement distinct from the consideration received pursuant to the merger agreement.

Assuming all necessary conditions are satisfied, which cannot be guaranteed, the Mergers are expected to close in the second quarter of 2012. Under the terms of each of the merger agreement and the Erdman purchase agreement, if the transactions contemplated thereby have not been completed by June 29, 2012, the parties to those agreements may terminate without penalty.

**4. Minimum Future Rental Revenues**

Our properties are generally leased to tenants under non-cancelable, fixed-term operating leases. Lease expiration dates extend as far as 2030 with some agreements providing for either fixed rent renewal terms or for market rent renewal terms. Our leases generally require the tenant to pay minimum rent, additional rent based upon increases in the Consumer Price Index, and all taxes (including property tax), insurance, maintenance and other operating costs associated with the leased property. No tenant occupied more than 10% of our net rentable square footage at year end.

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Future minimum lease payments by tenants under non-cancelable operating leases are as follows (in thousands):

|                             | <b>September 30,</b> |
|-----------------------------|----------------------|
| <b>For the year ending:</b> |                      |
| 2012                        | \$ 91,741            |
| 2013                        | 76,664               |
| 2014                        | 68,062               |
| 2015                        | 58,545               |
| 2016                        | 50,418               |
| Thereafter                  | 165,257              |
|                             | <b>\$ 510,687</b>    |

We have one property leased to a tenant under a capital lease that began in 1987 and expires in 2017. The tenant is the owner of the land on which the building sits and has leased the land to us for the same term with a bargain renewal option, through 2027, that we intend to exercise. Upon renewal of the ground lease, the property lease automatically extends for the same 10 year extension period. The investment in capital lease is included in Other assets in the consolidated financial statements in this Form 10-K and was as follows (in thousands):

|                              | <b>September 30,<br/>December 31,<br/>2011</b> | <b>September 30,<br/>December 31,<br/>2010</b> |
|------------------------------|--|--|
| Total minimum lease payments | \$ 10,299                                      | \$ 11,089                                      |
| Less: Unearned income        | (5,635)  | (6,119)  |
| Investment in capital lease  | <b>\$ 4,664</b>                                | <b>\$ 4,970</b>                                |

Total minimum lease payments receivable on the capital lease, exclusive of the operating expense reimbursement payments, are as follows (in thousands):

|                             | <b>September 30,</b> |
|-----------------------------|----------------------|
| <b>For the year ending:</b> |                      |
| 2012                        | \$ 796               |
| 2013                        | 624                  |
| 2014                        | 630                  |
| 2015                        | 636                  |
| 2016                        | 643                  |
| Thereafter                  | 6,970                |
|                             | <b>\$ 10,299</b>     |

**5. Investments in Real Estate Partnerships**

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We have ownership interests in multiple limited liability companies and limited partnerships. The following is a description of those interests as of December 31, 2011:

| Real Estate Entity                           | September 30,<br>Entity Holdings | September 30,<br>Year Founded | September 30,<br>Our Ownership |
|--|----------------------------------|-------------------------------|--------------------------------|
| <b>Consolidated</b>                          |                                  |                               |                                |
| Good Sam MOB Investors, LLC                  | one property                     | 2011                          | 87.4%                          |
| Anchor Cogdell Doylestown GP, LLC            | one property                     | 2011                          | 99.0%                          |
| Anchor Cogdell Covington, LLC                | one property                     | 2011                          | 99.0%                          |
| Anchor Cogdell Florence, LLC                 | one property                     | 2011                          | 95.0%                          |
| Bonney Lake MOB Investors, LLC               | one property                     | 2009                          | 61.7%                          |
| West Tennessee Investors MOB, LLC            | one property                     | 2008                          | 50.5%                          |
| Genesis Property Holdings, LLC               | one property                     | 2007                          | 40.0%                          |
| Cogdell Health Campus MOB, LP                | one property                     | 2006                          | 80.9%                          |
| Mebane Medical Investors, LLC                | one property                     | 2006                          | 35.1%                          |
| Rocky Mount MOB, LLC                         | one property                     | 2002                          | 34.5%                          |
| <b>Unconsolidated</b>                        |                                  |                               |                                |
| Cogdell Spencer Medical Partners LLC         | no assets or liabilities         | 2008                          | 20.0%                          |
| BSB Health/MOB Limited Partnership No. 2     | nine properties                  | 2002                          | 2.0%                           |
| Shannon Health/MOB Limited Partnership No. 1 | ten properties                   | 2001                          | 2.0%                           |
| McLeod Medical Partners, LLC                 | three properties                 | 1982                          | 1.1%                           |



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In 2011, we sold 49.5% of our 100% equity interest in West Tennessee Investors, LLC for \$3.1 million. At December 31, 2011, we owned 50.5% of the membership interests and the entity and its one property are now accounted for as a consolidated real estate partnership. In association with this transaction, additional paid in capital within the Consolidated Statement of Changes in Equity increased \$0.9 million.

We are the general partner or managing member for all of the limited liability companies and limited partnerships listed above. We also manage the properties owned by these entities and may receive property management fees, leasing fees, expense reimbursements, design-build revenue, and development fees from them in the course of our day-to-day operations. For the entities that we consolidate, those revenues and the corresponding expenses are eliminated in our consolidated financial statements.

The consolidated entities are included in our consolidated financial statements because the limited partners or non-managing members do not have sufficient participation rights in the entities to overcome the presumption of control by us as the general partner or managing member. The limited partners or non-managing members may have certain protective rights such as the ability to prevent the sale of building, the dissolution of the partnership or limited liability company, or the incurrence of additional indebtedness, in each case subject to certain exceptions.

We have a 2.0% ownership in BSB Health/MOB Limited Partnership No. 2 and a 2.0% ownership in Shannon Health/MOB Limited Partnership No. 1. For both real estate entities, the partnership agreements and tenant leases of the limited partners are designed to give preferential treatment to the limited partners as to the operating cash flows from the partnerships. We, as the general partner, do not generally participate in the operating cash flows from these entities other than to receive property management fees. The limited partners can remove us as the property manager and as the general partner. Due to the structures of the partnership agreements and tenant lease agreements, we report the properties owned by these two joint ventures as fee managed properties owned by third parties.

Our unconsolidated entities are accounted for under the equity method of accounting based on our ability to exercise significant influence as the entity's managing member or general partner. The following summary of financial information reflects the financial position and operations in their entirety, not just our interest in the entities, of the unconsolidated limited liability companies and limited partnerships for the periods indicated (in thousands):

|   | <b>September 30,<br/>December 31,<br/>2011</b>                        |   | <b>September 30,<br/>December 31,<br/>2010</b>                    |   |
|---|---|---|---|---|
| <b>Financial position:</b>                        |   |   |   |   |
| Total assets                                      | \$ 54,034   |   | \$ 53,755   |   |
| Total liabilities                                 | 46,410  |   | 47,272  |   |
| Member's equity                                   | 7,623   |   | 6,483   |   |
| <br>  |   |   |   |   |
|   | <b>September 30,<br/>For the Year Ended<br/>December 31,<br/>2011</b> | <b>September 30,<br/>For the Year Ended<br/>December 31,<br/>2010</b> | <b>September 30,<br/>For the Year Ended<br/>December 31, 2009</b> | <b>September 30,<br/>For the Year Ended<br/>December 31, 2008</b> |
| <b>Results of operations:</b>                     |   |   |   |   |
| Total revenues                                    | \$ 12,997   | \$ 11,905   | \$ 12,528   |   |
| Operating and general and administrative expenses | 5,828   | 5,612   | 5,977   |   |
| Net income  | 1,322   | 996   | 800   |   |

**Table of Contents****COGDELL SPENCER INC.****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS****6. Acquisitions and Dispositions*****Property Acquisitions***

For the year ended December 31, 2011, we acquired three buildings totaling approximately 213,000 net rentable square feet (unaudited) for a total approximate investment of \$41.0 million. The following table is an allocation of the purchase price for those acquisitions (in thousands):

|  | <b>September 30,</b> |
|--|----------------------|
| Land   | \$ 4,418             |
| Building and improvements                                | 32,101               |
| Acquired in place lease value and deferred leasing costs | 4,476                |
| Acquired above market leases                             | 912                  |
| Acquired below market leases                             | (1,312)              |
| Acquired below market ground lease                       | 355                  |
| <b>Total purchase price allocated</b>                    | <b>\$ 40,950</b>     |

For the year ended December 31, 2010, we acquired one building totaling approximately 72,000 net rentable square feet (unaudited) for a total approximate investment of \$16.6 million. The following table is an allocation of the purchase price for that acquisition (in thousands):

|   | <b>September 30,</b> |
|---|----------------------|
| Building and improvements                                   | \$ 13,796            |
| Land improvements   | 10                   |
| Acquired in place lease value and deferred leasing costs    | 2,618                |
| Acquired below market ground lease                          | 214                  |
| <b>Total purchase price allocated, net of cash acquired</b> | <b>\$ 16,638</b>     |

There were no property acquisitions in 2009.

***Property Dispositions***

In 2010, we sold Harbison Medical Office Building, located in Columbia, South Carolina for \$2.5 million and recorded a gain on sale of \$0.3 million. In 2009, the criteria for classification as held for sale had been met and the results of operations to were reclassified to Discontinued operations for all periods presented in the consolidated financial statements in this Form 10-K. This property is included in our Property Operations segment.

Below is a summary of discontinued operations for the real estate property reclassified to discontinued operations (in thousands):

| <b>September 30,<br/>December 31,<br/>2011</b> | <b>September 30,<br/>December 31,<br/>2010</b> | <b>September 30,<br/>December 31,<br/>2009</b> |
|--|--|--|
|--|--|--|

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|   |  |    |    |            |    |                |
|---|--|----|----|------------|----|----------------|
| <b>Revenues:</b>  |  |    |    |            |    |                |
| Rental revenues   |  | \$ | \$ | 139        | \$ | 354            |
| <b>Total revenues</b>   |  |    |    | <b>139</b> |    | <b>354</b>     |
| <b>Expenses:</b>  |  |    |    |            |    |                |
| Property operating and management   |  |    |    | 133        |    | 247            |
| Depreciation and amortization   |  |    |    |            |    | 137            |
| Interest expense  |  |    |    |            |    | 138            |
| <b>Total expenses</b>   |  |    |    | <b>133</b> |    | <b>522</b>     |
| <b>Income (loss) from discontinued operations before impairment of real estate property</b> |  |    |    |            |    |                |
|   |  |    |    | 6          |    | (168)          |
| Impairment of real estate property  |  |    |    |            |    | (1,359)        |
| Gain on sale of discontinued operations   |  |    |    | 264        |    |                |
| <b>Total discontinued operations</b>  |  | \$ | \$ | <b>270</b> | \$ | <b>(1,527)</b> |

**7. Business Segments**

We have two identified reportable segments: (1) Property Operations and (2) Design-Build and Development. We define business segments by their distinct customer base and service provided. Each segment operates under a separate management group and produces discrete financial information, which is reviewed by the chief operating decision maker to make resource allocation decisions and assess performance. Inter-segment sales and transfers are accounted for as if the sales and transfers were made to third parties, which involve applying a negotiated fee onto the costs of the services performed. All inter-company balances and transactions are eliminated during the consolidation process.

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**COGDELL SPENCER INC.**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

We evaluate the operating performance of our operating segments based on funds from operations ( FFO ) and funds from operations modified ( FFOM ). FFO, as defined by the National Association of Real Estate Investment Trusts ( NAREIT ), represents net income (computed in accordance with GAAP), excluding gains from sales of property, plus real estate depreciation and amortization (excluding amortization of deferred financing costs), plus impairment of depreciable real estate assets, and after adjustments for unconsolidated partnerships and joint ventures. To calculate FFOM, we adjust the NAREIT definition to add back noncontrolling interests in real estate partnerships and limited liability companies before real estate related depreciation and amortization, acquisition-related costs, and dividends on preferred stock. FFOM also adds back to FFO non-cash amortization of non-real estate related intangible assets associated with purchase accounting. We consider FFO and FFOM important supplemental measures of our operational performance. We believe FFO is frequently used by securities analysts, investors and other interested parties in the evaluation of REITs, many of which present FFO when reporting their results. We believe that FFOM assists securities analysts, investors and other interested parties in evaluating current period results to results prior to our 2008 acquisition of our Design-Build segment. FFO and FFOM are intended to exclude GAAP historical cost depreciation and amortization of real estate and related assets, which assume that the value of real estate assets diminishes ratably over time. Historically, however, real estate values have risen or fallen with market conditions. Because each of FFO and FFOM exclude depreciation and amortization unique to real estate, gains and losses from property dispositions and extraordinary items, each provides a performance measure that, when compared year over year, reflects the impact to operations from trends in occupancy rates, rental rates, operating costs, development activities and interest costs, providing perspective not immediately apparent from net income. Our methodology may differ from the methodology for calculating FFO utilized by other equity REITs and, accordingly, may not be comparable to such other REITs. Further, FFO and FFOM do not represent amounts available for management's discretionary use because of needed capital replacement or expansion, debt service obligations, or other commitments and uncertainties.

**Table of Contents****COGDELL SPENCER INC.****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

The following tables represent the segment information for the years ended December 31, 2011, 2010 and 2009 (in thousands):

| Year ended December 31, 2011  | September 30,<br>Property<br>Operations | September 30,<br>Design-Build<br>and<br>Development | September 30,<br>Intersegment<br>Eliminations | September 30,<br>Unallocated<br>and Other | September 30,<br>Total |
|---|---|---|---|---|------------------------|
| <b>Revenues:</b>  |   |   |   |   |                        |
| Rental revenue  | \$ 96,253                               | \$ 122,080  | \$ (43,061)                                   | \$ 79,019                                 | \$ 96,253              |
| Design-Build contract revenue and other sales   |   |   |   |   | 79,019                 |
| Property management and other fees  | 3,143                                   |   |   |   | 3,143                  |
| Development management and other income   |   | 1,954   | (1,832)                                       |   | 122                    |
| <b>Total revenues</b>   | <b>99,396</b>                           | <b>124,034</b>                                      | <b>(44,893)</b>                               |   | <b>178,537</b>         |
| <b>Certain operating expenses:</b>  |   |   |   |   |                        |
| Property operating and management   | 38,338                                  |   |   |   | 38,338                 |
| Design-Build contracts and development management   |   | 113,141   | (43,437)                                      |   | 69,704                 |
| Selling, general, and administrative  |   | 15,863  |   |   | 15,863                 |
| Impairment charges  |   | 26,885  |   |   | 26,885                 |
| <b>Total certain operating expenses</b>   | <b>38,338</b>                           | <b>155,889</b>                                      | <b>(43,437)</b>                               |   | <b>150,790</b>         |
|   | 61,058                                  | (31,855)  | (1,456)                                       |   | 27,747                 |
| Interest and other income   | 749                                     | 516   |   | 23  | 1,288                  |
| Corporate general and administrative expenses   |   |   |   | (8,978)                                   | (8,978)                |
| Interest expense  |   |   |   | (21,287)                                  | (21,287)               |
| Income tax expense applicable to funds from operations modified   |   |   |   | (75)                                      | (75)                   |
| Non-real estate related depreciation and amortization   |   | (1,104)   |   | (178)                                     | (1,282)                |
| Earnings from unconsolidated real estate partnerships, before real estate related depreciation and amortization | 31                                      |   |   |   | 31                     |
| Noncontrolling interests in real estate partnerships, before real estate related depreciation and amortization  | (2,544)                                 |   |   |   | (2,544)                |
| Dividends on preferred stock  |   |   |   | (6,248)                                   | (6,248)                |
| <b>Funds from operations modified (FFOM)</b>  | <b>59,294</b>                           | <b>(32,443)</b>                                     | <b>(1,456)</b>                                | <b>(36,743)</b>                           | <b>(11,348)</b>        |
| Amortization of intangibles related to purchase accounting, net of income tax benefit                           | (169)                                   | (756)   |   |   | (925)                  |
| <b>Funds from operations (FFO)</b>  | <b>59,125</b>                           | <b>(33,199)</b>                                     | <b>(1,456)</b>                                | <b>(36,743)</b>                           | <b>(12,273)</b>        |
| Real estate related depreciation and amortization   | (31,095)                                |   |   |   | (31,095)               |

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|  |    |         |    |          |    |         |    |          |    |          |
|--|----|---------|----|----------|----|---------|----|----------|----|----------|
| Noncontrolling interests in real estate partnerships, before real estate related depreciation and amortization |    | 2,544   |    |          |    |         |    | 2,544    |    |          |
| Acquisition-related expenses   |    | (523)   |    |          |    |         |    | (523)    |    |          |
| Dividends on preferred stock   |    |         |    |          |    | 6,248   |    | 6,248    |    |          |
| Net income (loss)  | \$ | 30,051  | \$ | (33,199) | \$ | (1,456) | \$ | (30,495) | \$ | (35,099) |
| Total assets   | \$ | 658,318 | \$ | 33,222   | \$ |         | \$ | 564      | \$ | 692,104  |

**Table of Contents****COGDELL SPENCER INC.****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

| <b>Year ended December 31, 2010</b>   | <b>September 30,<br/>Property<br/>Operations</b> | <b>September 30,<br/>Design-Build<br/>and<br/>Development</b> | <b>September 30,<br/>Intersegment<br/>Eliminations</b> | <b>September 30,<br/>Unallocated<br/>and Other</b> | <b>September 30,<br/>Total</b> |
|---|--|---|--|--|--------------------------------|
| <b>Revenues:</b>  |  |   |  |  |                                |
| Rental revenue  | \$ 87,895  | \$  | \$ (92)  | \$   | \$ 87,803                      |
| Design-Build contract revenue and other sales   |  | 113,997   | (22,741)   |  | 91,256                         |
| Property management and other fees  | 3,212  |   |  |  | 3,212                          |
| Development management and other income   |  | 5,861   | (5,715)  |  | 146                            |
| <b>Total revenues</b>   | <b>91,107</b>                                    | <b>119,858</b>  | <b>(28,548)</b>  |  | <b>182,417</b>                 |
| <b>Certain operating expenses:</b>  |  |   |  |  |                                |
| Property operating and management   | 33,664   |   |  |  | 33,664                         |
| Design-Build contracts and development management   |  | 97,561  | (25,560)   |  | 72,001                         |
| Selling, general, and administrative  |  | 17,373  | (92)   |  | 17,281                         |
| Intangible asset impairment charges   |  | 127,041   |  |  | 127,041                        |
| <b>Total certain operating expenses</b>   | <b>33,664</b>                                    | <b>241,975</b>  | <b>(25,652)</b>  |  | <b>249,987</b>                 |
|   | 57,443   | (122,117)   | (2,896)  |  | (67,570)                       |
| Interest and other income   | 607  | 3   |  | 45   | 655                            |
| Corporate general and administrative expenses   |  |   |  | (13,130)   | (13,130)                       |
| Interest expense  |  |   |  | (21,994)   | (21,994)                       |
| Interest rate derivative expense  |  |   |  | (371)  | (371)                          |
| Income tax benefit applicable to funds from operations modified   |  |   |  | 15,396   | 15,396                         |
| Non-real estate related depreciation and amortization   |  | (997)   |  | (229)  | (1,226)                        |
| Earnings from unconsolidated real estate partnerships, before real estate related depreciation and amortization | 26   |   |  |  | 26                             |
| Noncontrolling interests in real estate partnerships, before real estate related depreciation and amortization  | (2,031)  |   |  |  | (2,031)                        |
| Discontinued operations, before real estate related depreciation and amortization                               | 9  |   |  | (3)  | 6                              |
| Dividends on preferred stock  |  |   |  | (208)  | (208)                          |
| <b>Funds from operations modified (FFOM)</b>  | <b>56,054</b>                                    | <b>(123,111)</b>  | <b>(2,896)</b>   | <b>(20,494)</b>                                    | <b>(90,447)</b>                |
| Amortization of intangibles related to purchase accounting, net of income tax benefit                           | (169)  | (2,282)   |  | 956  | (1,495)                        |
| <b>Funds from operations (FFO)</b>  | <b>55,885</b>                                    | <b>(125,393)</b>  | <b>(2,896)</b>   | <b>(19,538)</b>                                    | <b>(91,942)</b>                |
| Real estate related depreciation and amortization   | (29,177)   |   |  |  | (29,177)                       |
| Gain on sale of real estate property  | 264  |   |  |  | 264                            |

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|  |    |         |    |           |    |         |    |          |    |           |
|--|----|---------|----|-----------|----|---------|----|----------|----|-----------|
| Noncontrolling interests in real estate partnerships, before real estate related depreciation and amortization |    | 2,031   |    |           |    |         |    | 2,031    |    |           |
| Dividends on preferred stock   |    |         |    |           |    | 208     |    | 208      |    |           |
| Net income (loss)  | \$ | 29,003  | \$ | (125,393) | \$ | (2,896) | \$ | (19,330) | \$ | (118,616) |
| Total assets   | \$ | 585,182 | \$ | 47,457    | \$ |         | \$ | 301      | \$ | 632,940   |



**Table of Contents****COGDELL SPENCER INC.****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

| Year ended December 31, 2009   | September 30,<br>Property<br>Operations | September 30,<br>Design-Build<br>and<br>Development | September 30,<br>Intersegment<br>Eliminations | September 30,<br>Unallocated<br>and Other | September 30,<br>Total |
|--|---|---|---|---|------------------------|
| <b>Revenues:</b>   |   |   |   |   |                        |
| Rental revenue   | \$ 79,578                               | \$  | \$ (92)                                       | \$  | \$ 79,486              |
| Design-Build contract revenue and other sales  |   | 176,124   | (32,708)                                      |   | 143,416                |
| Property management and other fees   | 3,336                                   |   |   |   | 3,336                  |
| Development management and other income  |   | 6,750   | (3,387)                                       |   | 3,363                  |
| <b>Total revenues</b>  | <b>82,914</b>                           | <b>182,874</b>                                      | <b>(36,187)</b>                               |   | <b>229,601</b>         |
| <b>Certain operating expenses:</b>   |   |   |   |   |                        |
| Property operating and management  | 31,810                                  |   |   |   | 31,810                 |
| Design-Build contracts and development management  |   | 142,305   | (28,344)                                      |   | 113,961                |
| Selling, general, and administrative   |   | 20,541  | (92)  |   | 20,449                 |
| Intangible asset impairment charges  |   | 120,920   |   |   | 120,920                |
| <b>Total certain operating expenses</b>  | <b>31,810</b>                           | <b>283,766</b>                                      | <b>(28,436)</b>                               |   | <b>287,140</b>         |
|  | 51,104                                  | (100,892)   | (7,751)                                       |   | (57,539)               |
| Interest and other income  | 541                                     | 48  |   | 31  | 620                    |
| Gain on settlement from MEA Holdings, Inc. transaction   |   |   |   | 4,905                                     | 4,905                  |
| Corporate general and administrative expenses  |   |   |   | (11,836)                                  | (11,836)               |
| Interest expense   |   |   |   | (21,711)                                  | (21,711)               |
| Interest rate derivative expense   |   |   |   | (2,511)                                   | (2,511)                |
| Income tax benefit applicable to funds from operations modified  |   |   |   | 20,356                                    | 20,356                 |
| Non-real estate related depreciation and amortization  |   | (779)   |   | (225)                                     | (1,004)                |
| Earnings from unconsolidated real estate partnerships, before real estate related depreciation and amortization                        | 27                                      |   |   |   | 27                     |
| Noncontrolling interests in real estate partnerships, before real estate related depreciation and amortization                         | (1,049)                                 |   |   |   | (1,049)                |
| Discontinued operations and impairment of real estate property held for sale, before real estate related depreciation and amortization | (1,253)                                 |   |   | (137)                                     | (1,390)                |
| <b>Funds from operations modified (FFOM)</b>   | <b>49,370</b>                           | <b>(101,623)</b>                                    | <b>(7,751)</b>                                | <b>(11,128)</b>                           | <b>(71,132)</b>        |
| Amortization of intangibles related to purchase accounting, net of income tax benefit  | (169)                                   | (4,364)   |   | 1,768                                     | (2,765)                |
| <b>Funds from operations (FFO)</b>   | <b>49,201</b>                           | <b>(105,987)</b>                                    | <b>(7,751)</b>                                | <b>(9,360)</b>                            | <b>(73,897)</b>        |
|  | (29,114)                                |   |   |   | (29,114)               |

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|  |    |         |    |           |    |         |    |         |    |           |
|--|----|---------|----|-----------|----|---------|----|---------|----|-----------|
| Real estate related depreciation and amortization  |    |         |    |           |    |         |    |         |    |           |
| Noncontrolling interests in real estate partnerships, before real estate related depreciation and amortization |    | 1,049   |    |           |    | 1,049   |    |         |    |           |
| Net income (loss)  | \$ | 21,136  | \$ | (105,987) | \$ | (7,751) | \$ | (9,360) | \$ | (101,962) |
| Total assets   | \$ | 555,072 | \$ | 195,799   | \$ |         | \$ | 1,792   | \$ | 752,663   |

**Table of Contents****COGDELL SPENCER INC.****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS****8. Contracts**

Revenue and billings to date on uncompleted contracts, from their inception, are as follows (in thousands):

|  | September 30,<br>December 31,<br>2011 | September 30,<br>December 31,<br>2010 |
|--|---------------------------------------|---------------------------------------|
| Costs and estimated earnings on uncompleted contracts  | \$ 38,960                             | \$ 48,394                             |
| Billings to date   | (38,102)                              | (49,336)                              |
| Net costs and estimated earnings (billings to date) in excess of billings to date (costs and estimated earnings) | \$ 858                                | \$ (942)                              |

The following table shows costs and estimated earnings in excess of billings and billings in excess of costs and estimated earnings as included with the consolidated balance sheets (in thousands):

|  | September 30,<br>December 31,<br>2011 | September 30,<br>December 31,<br>2010 |
|--|---------------------------------------|---------------------------------------|
| Costs and estimated earnings in excess of billings <sup>(1)</sup>  | \$ 2,561                              | \$ 988                                |
| Billings in excess of costs and estimated earnings <sup>(2)</sup>  | (1,703)                               | (1,930)                               |
| Net costs and estimated earnings (billings in excess of costs and estimated earnings) in excess of billings in excess of costs and estimated earnings (costs and estimated earnings) | \$ 858                                | \$ (942)                              |

<sup>(1)</sup> Included in Other assets in the consolidated balance sheet

<sup>(2)</sup> Included in Other liabilities in the consolidated balance sheet

At December 31, 2011, the Company had retainage receivables of \$2.4 million, which are included in Tenant and accounts receivable in the consolidated balance sheets.

**9. Long Lived Assets**

We review the value of goodwill and intangible assets on an annual basis and when circumstances indicate a potential impairment may exist. This goodwill impairment review involves a two-step process. The first step is a comparison of the reporting unit's fair value to its carrying value. Fair value is estimated by using two approaches, an income approach and a market approach. Each approach is weighted 50% in our analysis as we believe a market participant would consider both approaches equally. The income approach uses our projected operating results and discounted cash flows using a weighted-average cost of capital that reflects current market conditions. The cash flow projections use estimates of economic and market information over the projection period, including growth rates in revenues and costs and estimates of future expected changes in operating margins and cash expenditures. Other significant estimates and assumptions include terminal value growth rates, future estimates of capital expenditures, and changes in future working capital requirements. The market approach estimates fair value by

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applying cash flow multiples to our operating performance. The multiples are derived from comparable publicly traded companies with similar operating and profitability characteristics. Additionally, we reconcile the total of the estimated fair values of all our reporting units to our market capitalization to determine if the sum of the individual fair values is reasonable compared to the external market indicators.

If the carrying value of the reporting unit is higher than its fair value, then an indication of impairment may exist and a second step must be performed to measure the amount of impairment. The amount of impairment is determined by comparing the implied fair value of the reporting unit's goodwill to the carrying value of the goodwill calculated in the same manner as if the reporting unit was being acquired in a business combination. If the implied fair value of goodwill is less than the recorded goodwill, then an impairment charge for the difference would be recorded.

For the analysis at December 31, 2011, related to the proposed sale of the Design-Build and Development segment, we used the pending sales price as our indicator of the implied fair value of our goodwill and intangible assets.

For non-amortizing intangible assets, we generally estimate fair value by applying an estimated market royalty rate to projected revenues and then discount them using a weighted-average cost of capital that reflects current market conditions.

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We performed an annual review of our real estate assets and concluded no impairment existed for those assets.

We recorded a goodwill and intangible asset impairment charge of \$23.3 million related to the proposed sale of the Design-Build and Development segment. This charge, valued at a Level 2 measurement, reduced the carrying value of goodwill and customer relationships by \$22.9 million and \$0.4 million, respectively. These are non-cash charges. See Note 3 to these Consolidated Financial Statements for a discussion of the proposed sale of our company.

The following table presents information about our goodwill and customer relationships at fair value as of December 31, 2011 (in thousands):

| Description            | September 30,  | September 30, | September 30,                     | September 30, | September 30, |
|------------------------|----------------|---------------|-----------------------------------|---------------|---------------|
|                        | Recorded Value | Level 1       | Fair Value Measurement<br>Level 2 | Level 3       | Total Losses  |
| Goodwill               | \$             | \$            | \$                                | \$            | \$ (22,882)   |
| Customer relationships |                |               |                                   |               | (397)         |
|                        | \$             | \$            | \$                                | \$            | \$ (23,279)   |

See Note 2 to these Consolidated Financial Statements for a discussion of our accounting policy regarding the fair value of financial and non-financial assets.

Additionally, we recorded an impairment charge, valued at a Level 3 measurement, of \$3.6 million related to land and property, plant, and equipment associated with the Design-Build and Development segment. The total impairment charge for goodwill, customer relationships, and property, plant, and equipment was \$26.9 million.

| Description  | September 30,  | September 30, | September 30,                     | September 30, | September 30, |
|--|----------------|---------------|-----------------------------------|---------------|---------------|
|  | Recorded Value | Level 1       | Fair Value Measurement<br>Level 2 | Level 3       | Total Losses  |
| Design-Build and Development segment land and property, plant, and equipment | \$ 3,000       | \$            | \$                                | \$ 3,000      | \$ (3,606)    |

Goodwill is not amortized. The following table shows the change in carrying value related to goodwill for the year ended December 31, 2011 (in thousands):

|                                  | September 30,<br>Gross Amount | September 30,<br>Accumulated<br>Impairment | September 30,<br>Net<br>Carrying Value |
|----------------------------------|-------------------------------|--|--|
| Goodwill as of January 1, 2011   | \$ 180,438                    | \$ (157,556)                               | \$ 22,882                              |
| Impairment losses                |                               | (22,882)                                   | (22,882)                               |
| Goodwill as of December 31, 2011 | \$ 180,438                    | \$ (180,438)                               | \$                                     |

Amortizing intangible assets and related impairment consisted of the following for the year ended December 31, 2011 (in thousands):

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|   | September 30,<br>Gross Amount | September 30,<br>Accumulated<br>Amortization | September 30,<br>Impairment<br>Charges | September 30,<br>Net Carrying<br>Value |
|---|-------------------------------|--|--|--|
| In place lease value and deferred leasing costs | \$ 47,760                     | \$ (34,070)                                  | \$                                     | \$ 13,690                              |
| Ground leases                                   | 4,132                         | (813)  |  | 3,319                                  |
| Property management contracts                   | 2,098                         | (933)  |  | 1,165                                  |
| Above market tenant leases                      | 2,471                         | (1,355)                                      |  | 1,116                                  |
| Customer relationships                          | 1,789                         | (1,392)                                      | (397)                                  |  |
| Total amortizing intangible assets              | \$ 58,250                     | \$ (38,563)                                  | \$ (397)                               | \$ 19,290                              |

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Amortization expense related to intangibles for the year ended December 31, 2011 was \$4.7 million. We expect to recognize amortization expense from the amortizing intangible assets as follows (in thousands):

|                              | <b>September 30,</b> |
|------------------------------|----------------------|
| <b>For the years ending:</b> |                      |
| 2012                         | \$ 3,389             |
| 2013                         | 2,741                |
| 2014                         | 2,512                |
| 2015                         | 2,029                |
| 2016                         | 1,342                |
| Thereafter                   | 7,277                |
|                              | <b>\$ 19,290</b>     |

***For the year ended December 31, 2010***

We performed an annual review of our real estate assets and concluded no impairment existed for those assets.

We recorded an impairment charge to goodwill of \$85.8 million (\$79.4 million after taxes). We also recorded impairment charges of \$41.2 million (\$25.2 million after taxes) related to trade names and trademarks. These were non-cash charges. We reviewed our position in the healthcare construction market place and our business development strategy. Based on our review of industry data, it was noted that our Design-Build and Development segment had lost market share in each of the previous two years. As a result, we lowered our expected future Design-Build and Development cash flows, which lowered the valuation of the reporting unit, and caused the impairment charges. Due to decreases in market share, changes in our brand name, and decreased emphasis on branding, we valued our acquired trade names and trademarks at zero as of December 31, 2010. We used a weighted-average cost of capital of 14.0%. We also evaluated our amortizing intangible assets and concluded no impairment existed for those assets.

The following table presents information about our goodwill and certain intangible assets measured at fair value as of December 31, 2010 (in thousands):

| <b>Description</b>                  | <b>September 30,</b>  | <b>September 30,</b> | <b>September 30,</b>          |                  | <b>September 30,</b> | <b>September 30,</b> |
|-------------------------------------|-----------------------|----------------------|-------------------------------|------------------|----------------------|----------------------|
|                                     | <b>Recorded Value</b> | <b>Level 1</b>       | <b>Fair Value Measurement</b> |                  | <b>Level 3</b>       | <b>Total Losses</b>  |
|                                     |                       |                      | <b>Level 2</b>                |                  |                      |                      |
| Goodwill                            | \$ 22,882             | \$                   | \$                            | \$ 22,882        | \$                   | (85,801)             |
| Design-build customer relationships | 1,153                 |                      |                               | 1,161            |                      |                      |
| Trade names and trademarks          |                       |                      |                               |                  |                      | (41,240)             |
| Design-build signed contracts       |                       |                      |                               | 2,130            |                      |                      |
| Design-build proposals              |                       |                      |                               | 938              |                      |                      |
|                                     | <b>\$ 24,035</b>      | <b>\$</b>            | <b>\$</b>                     | <b>\$ 27,111</b> | <b>\$</b>            | <b>(127,041)</b>     |

See Note 2 to these Consolidated Financial Statements for a discussion of our accounting policy regarding the fair value of financial and non-financial assets.

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Goodwill and trade names and trademarks are not amortized. The following table shows the change in carrying value related to goodwill and trade names and trademarks intangible assets for the year ended December 31, 2010 (in thousands):

|  | September 30,<br>Gross Amount | September 30,<br>Accumulated<br>Impairment | September 30,<br>Net<br>Carrying Value |
|--|-------------------------------|--|--|
| Goodwill as of January 1, 2010                           | \$ 180,438                    | \$ (71,755)                                | \$ 108,683                             |
| Impairment losses  |                               | (85,801)                                   | (85,801)                               |
| <b>Goodwill as of December 31, 2010</b>                  | <b>\$ 180,438</b>             | <b>\$ (157,556)</b>                        | <b>\$ 22,882</b>                       |
| Trade names and trademarks as of January 1, 2010         | \$ 75,968                     | \$ (34,728)                                | \$ 41,240                              |
| Impairment losses  |                               | (41,240)                                   | (41,240)                               |
| <b>Tradenames and trademarks as of December 31, 2010</b> | <b>\$ 75,968</b>              | <b>\$ (75,968)</b>                         | <b>\$</b>                              |



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Amortizing intangible assets consisted of the following for the year ended December 31, 2010 (in thousands):

|   | September 30,<br>Gross Amount | September 30,<br>Accumulated<br>Amortization | September 30,<br>Net<br>Carrying Value |
|---|-------------------------------|--|--|
| In place lease value and deferred leasing costs | \$ 43,284                     | \$ (30,721)                                  | \$ 12,563                              |
| Ground leases                                   | 3,776                         | (650)  | 3,126                                  |
| Property management contracts                   | 2,097                         | (763)  | 1,334                                  |
| Design-build customer relationships             | 1,789                         | (636)  | 1,153                                  |
| Above market tenant leases                      | 1,559                         | (1,134)                                      | 425                                    |
| Design-build signed contracts                   | 13,253                        | (13,253)                                     |  |
| Design-build proposals                          | 2,129                         | (2,129)                                      |  |
| Total amortizing intangible assets              | \$ 67,887                     | \$ (49,286)                                  | \$ 18,601                              |

***For the year ended December 31, 2009***

We performed an annual review of our real estate assets and concluded no impairment existed for those assets.

An interim review of the Design-Build and Development's intangible assets was performed on March 31, 2009, and as a result of that review we recorded an impairment charge to goodwill of \$71.8 million. We also recorded impairment charges of \$34.7 million (\$21.2 million after taxes) related to trade names and trademarks and \$14.4 million (\$8.8 million after taxes) related to the amortizing intangibles of proposals and customer relationships. These were non-cash charges. The impairment charges were due to decline in our stock price, a decline in the cash flow multiples for comparable public engineering and construction companies, and changes in our cash flow projections resulting from a decline in backlog and delays and cancellations of client building projects. We used a weighted-average cost of capital of 14.5% and an estimated royalty rate of 2.0%.

**Table of Contents****COGDELL SPENCER INC.****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS****10. Debt**

Debt consisted of the following (dollars in thousands):

|  | September 30,<br>Stated Interest<br>Rate (%) | September 30,<br>Interest<br>Rate (%) | September 30,<br>Principal<br>Balance<br>As of December<br>31, 2011 | September 30,<br>Principal<br>Balance<br>As of December<br>31, 2010 | September 30,<br>Maturity<br>Date | September 30,<br>Amortization<br>(years) |
|--|--|---------------------------------------|---|---|-----------------------------------|--|
| <b>Secured mortgage loans - wholly-owned properties:</b>   |  |                                       |   |   |                                   |  |
| Beaufort Medical Plaza   | N/A  | N/A                                   | N/A   | \$ 4,637  | 8/18/2011                         | 39                                       |
| Mulberry Medical Park  | N/A  | N/A                                   | N/A   | 863   | 9/15/2011                         | 10                                       |
| Methodist Professional Center I  | N/A  | N/A                                   | N/A   | 25,250  | 10/31/2011                        | 30                                       |
| St. Francis Outpatient Surgery Center  | N/A  | N/A                                   | N/A   | 13,000  | 11/29/2011                        | Interest only                            |
| River Hills Medical Plaza  | N/A  | N/A                                   | N/A   | 3,445   | 12/22/2011                        | 22                                       |
| East Jefferson Medical Plaza   | N/A  | N/A                                   | N/A   | 11,600  | 1/31/2012                         | Interest only                            |
| Barclay Downs  | 6.50   | 6.50                                  | \$ 4,172  | 4,278   | 11/15/2012                        | 25                                       |
| Providence Medical Office Building I, II and III   | 6.12   | 6.12                                  | 7,791   | 8,067   | 1/12/2013                         | 25                                       |
| One Medical Park   | 5.93   | 5.93                                  | 4,594   | 4,852   | 11/1/2013                         | 20                                       |
| Three Medical Park   | 5.55   | 5.55                                  | 7,224   | 7,455   | 3/25/2014                         | 25                                       |
| Medical Arts Center of Orangeburg  | LIBOR + 3.25                                 | 6.00 <sup>(1)</sup>                   | 2,147   | 2,259   | 5/5/2014                          | 20                                       |
| Lancaster Rehabilitation Hospital  | 6.71   | 6.71                                  | 9,293   | 9,463   | 6/26/2014                         | 25                                       |
| Lancaster Rehabilitation Hospital  | 6.79   | 6.79                                  | 2,051   | 2,084   | 6/26/2014                         | 25                                       |
| Rowan Outpatient Surgery Center  | 6.00   | 6.00                                  | 3,052   | 3,148   | 7/6/2014                          | 25                                       |
| East Jefferson MOB   | 6.01   | 6.01                                  | 8,486   | 8,735   | 8/10/2014                         | 25                                       |
| Rocky Mount Kidney Center  | 6.75   | 6.75                                  | 921   | 962   | 8/21/2014                         | 15                                       |
| Randolph Medical Park, Lincoln/Lakemont Family Practice, and Northcross Family Physicians                            | 7.00   | 7.00                                  | 7,112   | 7,303   | 10/15/2014                        | 20                                       |
| MRMC MOB I   | 7.33   | 7.33                                  | 5,811   | 5,905   | 11/1/2014                         | 25                                       |
| HealthPartners Medical & Dental Clinics  | LIBOR + 3.25                                 | 6.80 <sup>(2)</sup>                   | 11,817  | 12,065  | 11/1/2014                         | 22.5                                     |
| St. Francis CMOB, St. Francis Professional Medical Center  | LIBOR + 2.25                                 | 2.55                                  | 9,000   | 6,688   | 11/15/2014                        | 25 <sup>(3)</sup>                        |
| St. Francis Medical Plaza (Greenville), St. Francis Women's  | LIBOR + 2.25                                 | 2.55                                  | 8,170   | 7,184   | 11/15/2014                        | 25 <sup>(3)</sup>                        |
| Copperfield Medical Mall, Harrisburg Medical Mall, Midland Medical Park and Weddington & Internal/Pediatric Medicine | LIBOR + 1.50                                 | 3.25 <sup>(4)</sup>                   | 7,751   | 8,017   | 12/15/2014                        | 25                                       |
| Peerless Crossing Medical Center   | 6.06   | 6.06                                  | 7,145   | 7,253   | 9/1/2016                          | 30                                       |
| Duluth MOB   | LIBOR + 3.50                                 | 5.50 <sup>(5)</sup>                   | 153   |   | 9/30/2016                         | 25 <sup>(6)</sup>                        |

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|   |              |                     |             |                   |                   |                              |
|---|--------------|---------------------|-------------|-------------------|-------------------|------------------------------|
| Rocky Mount Medical Park  | LIBOR + 3.50 | 3.80 <sup>(7)</sup> | 10,088      | 10,279            | 10/22/2016        | 25                           |
| Palmetto Health Parkridge   | 5.68         | 5.68                | 13,500      | 13,500            | 6/1/2017          | Interest only <sup>(8)</sup> |
| Central NY Medical Center   | 6.22         | 6.22                | 24,500      | 24,500            | 7/1/2017          | Interest only                |
| Summit Professional Plaza I and II                                    | 6.18         | 6.18                | 15,925      | 15,925            | 9/1/2017          | Interest only                |
| University Physicians MOB & Outpatient Clinic                         | LIBOR + 2.25 | 5.95 <sup>(2)</sup> | 10,219      | 10,408            | 4/20/2019         | 25                           |
| Roper Medical Office Building   | 7.10         | 7.10                | 9,122       | 9,281             | 6/1/2019          | 25                           |
| Health Park Medical Office Building                                   | 7.50         | 7.50                | 6,794       | 6,901             | 12/1/2019         | 25                           |
| <b>Total / weighted average mortgages - wholly-owned properties</b>   |              |                     | <b>5.77</b> | <b>196,838</b>    | <b>255,307</b>    |                              |
| <b>Secured revolving credit facility:</b>                             |              |                     |             |                   |                   |                              |
| Tranche I   | LIBOR + 3.25 | 3.55                | 95,000      |                   | 3/1/2014          | Interest only                |
| Tranche II  | N/A          | N/A                 | N/A         | 30,000            |                   |                              |
| Tranche I   | N/A          | N/A                 | N/A         | 15,000            |                   |                              |
| <b>Total / weighted average secured revolving credit facility</b>     |              |                     | <b>3.55</b> | <b>95,000</b>     | <b>45,000</b>     |                              |
| <b>Term Loan</b>  | LIBOR + 3.75 | 4.05                | 80,800      |                   | 8/2/2014          | Interest only                |
| <b>Consolidated real estate partnerships:</b>                         |              |                     |             |                   |                   |                              |
| Alamance Regional Mebane Outpatient Center                            | LIBOR + 1.30 | 1.60                | 10,873      | 10,838            | 5/15/2012         | 30                           |
| Alamance Regional Mebane Outpatient Center                            | LIBOR + 4.00 | 4.30                | 1,461       | 1,470             | 5/15/2012         | 30                           |
| Lancaster ASC MOB   | LIBOR + 1.20 | 5.23 <sup>(2)</sup> | 9,976       | 10,210            | 3/2/2015          | 25                           |
| Good Sam Medical Office Building                                      | 7.85         | 7.85 <sup>(9)</sup> | 12,281      |                   | 6/30/2015         | 25 <sup>(6)</sup>            |
| English Road Medical Center   | 4.99         | 4.99                | 5,040       | 5,162             | 4/1/2016          | 25                           |
| Woodlands Center for Specialized Medicine                             | LIBOR + 1.50 | 6.21 <sup>(2)</sup> | 16,311      | 16,610            | 9/26/2018         | 25                           |
| Bonney Lake Medical Office Building                                   | LIBOR + 3.25 | 6.44 <sup>(2)</sup> | 10,565      | 2,937             | 2/5/2019          | 25 <sup>(6)</sup>            |
| Medical Center Physicians Tower                                       | LIBOR + 2.50 | 6.19 <sup>(2)</sup> | 14,450      | 14,707            | 3/1/2019          | 25                           |
| <b>Total / weighted average consolidated real estate partnerships</b> |              |                     | <b>5.63</b> | <b>80,957</b>     | <b>61,934</b>     |                              |
| <b>Total / weighted average debt</b>                                  |              |                     | <b>4.97</b> | <b>\$ 453,595</b> | <b>\$ 362,241</b> |                              |
| Unamortized premium   |              |                     |             | 39                | 62                |                              |
| <b>Total / weighted average debt</b>                                  |              |                     | <b>4.97</b> | <b>\$ 453,634</b> | <b>\$ 362,303</b> |                              |

(1) Minimum interest of 6.00%.

(2) Represents the fixed rate for floating rate loans that have been swapped to fixed.

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- (3) Interest only through November 2012. Principal and interest payments from December 2012 through November 2014.
- (4) Maximum interest of 8.25%; minimum interest of 3.25%.
- (5) Interest Rate of 5.5% during construction period.
- (6) Interest only during construction period.
- (7) Maximum interest of 6.50%.
- (8) Interest only through June 2012. Principal and interest payments from July 2012 through June 2017.
- (9) Interest of 7.85% during construction, 7.5% @ occupancy, 7.1% @ 75% occupancy with \$1,615,000 NOI. The LIBOR rate was 0.30% and 0.26% at December 31, 2011 and 2010, respectively. The prime rate was 3.25% at December 31, 2011 and 2010.

At December 31, 2011, we believe we were in compliance with all of our loan covenants.

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**COGDELL SPENCER INC.**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

The financial covenants related to our secured revolving credit facility ( *Credit Facility* ) and our secured term loan facility (the *Term Loan Facility* ) require a minimum fixed charge coverage ratio (ratio of adjusted consolidated earnings before interest taxes and depreciation for a trailing 12 month period, as defined in the facilities, to fixed charges, representing interest, scheduled principal payments and preferred dividends) of 1.35 to 1.00 through March 31, 2012, and 1.50 to 1.00 beginning April 1, 2012 through the initial maturity of the facilities. As of December 31, 2011, our ratio for this covenant was 1.44 to 1.00. Should our ratio for this covenant fall below 1.35 to 1.00 for the first quarter of 2012 or below 1.50 to 1.00 for quarters subsequent to first quarter 2012, then we will be in default on the facilities' agreements and may be required to repay the outstanding balances or pay a default rate interest rate.

***Secured Revolving Credit Facility***

On March 1, 2011, we amended and restated our Credit Facility. This \$200.0 million Credit Facility is held with a syndicate of financial institutions. The Credit Facility is available (1) to fund working capital and other general corporate purposes, (2) to finance acquisition and development activity, and (3) to refinance existing and future indebtedness. The Credit Facility permits us to borrow, subject to borrowing base availability, up to \$200.0 million of revolving loans, with sub-limits of \$25.0 million for swingline loans and \$25.0 million for letters of credit. As of December 31, 2011, the maximum available borrowings under the Credit Facility was \$121.5 million based on 70% of the value of the aggregate property pledged as collateral. As of December 31, 2011, there was \$18.5 million available under the Credit Facility as \$95.0 million was outstanding and \$8.0 million of availability was restricted related to outstanding letters of credit. We have the ability to increase the availability by pledging additional unencumbered property to the Credit Facility.

The Credit Facility also allows for up to \$150.0 million of increased availability (to a total aggregate available amount of \$350.0 million), at our request but subject to each lender's option to increase its commitment. The interest rate on loans under the Credit Facility equals, at our election, either (1) LIBOR (0.30% as of December 31, 2011) plus a margin of between 275 to 350 basis points based on our total leverage ratio (3.25% as of December 31, 2011) or (2) the higher of the federal funds rate plus 50 basis points or Bank of America, N.A.'s prime rate (3.25% as of December 31, 2011) plus a margin of between 175 to 250 (2.25% as of December 31, 2011) basis points based on our total leverage ratio.

The Credit Facility contains customary terms and conditions for credit facilities of this type, including, but not limited to, (1) affirmative covenants relating to our corporate structure and ownership, maintenance of insurance, compliance with environmental laws and preparation of environmental reports, (2) negative covenants relating to restrictions on liens, indebtedness, certain investments (including loans and certain advances), mergers and other fundamental changes, sales and other dispositions of property or assets and transactions with affiliates, maintenance of our REIT qualification and listing on the NYSE or NASDAQ, and (3) financial covenants to be met at all times including a maximum total leverage ratio (65% through March 31, 2013, and 60% thereafter), maximum secured recourse indebtedness ratio, excluding the indebtedness under the Credit Facility (15%), minimum fixed charge coverage ratio (1.35 to 1.00 through March 31, 2012, and 1.50 to 1.00 thereafter), minimum consolidated tangible net worth (\$237.1 million plus 80% of the net proceeds of equity issuances issued after the closing date of March 1, 2011) and minimum net operating income ratio from properties secured under the Credit Facility to Credit Facility interest expense (1.50 to 1.00). Additionally, provisions in the Credit Facility indirectly prohibit us from redeeming or otherwise repurchasing any shares of our stock, including our preferred stock.

On August 1, 2011, we entered into Amendment No. 2 to the Credit Facility ( *Amendment No. 2 to the Credit Facility* ). Amendment No. 2 to the Credit Facility modified, among other things, the financial covenant to exclude the Term Loan Facility, discussed below, from the calculation of the secured recourse indebtedness ratio and to decrease the maximum secured recourse indebtedness ratio to 15%. Prior to Amendment No. 2 to the Credit Facility, we entered into Amendment No. 1 to the Credit Facility ( *Amendment No. 1 to the Credit Facility* ) to make a non-material change to revise a negative covenant that unintentionally restricted our ability to incur liens securing recourse indebtedness for us or our subsidiaries.

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**COGDELL SPENCER INC.**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

***Term Loan***

On August 2, 2011, we closed on an \$80.8 million Term Loan Facility, dated as of August 2, 2011, among us, as a Guarantor, the Operating Partnership, as Borrower, Bank of America, N.A., as administrative agent, and the other lenders from time to time party thereto. Merrill Lynch, Pierce, Fenner & Smith Incorporated acted as the sole lead arranger and sole bookrunner for the Term Loan Facility.

We used the proceeds of the Term Loan Facility to refinance \$58.6 million of certain mortgages that mature in 2011 and 2012 and to pay down \$22.2 million of our \$200 million secured Credit Facility. The Term Loan Facility matures on August 2, 2014, subject to a one-year extension at our option conditioned upon continued compliance with the representations, warranties and covenants, and payment of a fee to the lenders. The Term Loan Facility also contains an accordion feature, which permits us to request the lenders, from time to time, to increase the facility to a total borrowing amount of \$130.8 million, subject to continued compliance with the representations, warranties, and covenants.

Borrowings under the Term Loan Facility bear interest at either (1) LIBOR (0.30% as of December 31, 2011) plus a margin of between 325 to 400 basis points based on our total leverage ratio (3.75% as of December 31, 2011) or (2) the higher of the federal funds rate plus 50 basis points or Bank of America, N.A.'s prime rate (3.25% as of December 31, 2011) plus a margin of between 225 to 300 (2.75% as of December 31, 2011) basis points based on our total leverage ratio.

The Term Loan Facility is secured by a pledge of our ownership interests in certain of our property-owning subsidiaries. We will be required, however, to deliver mortgages on the borrowing base properties if we exceed a specified leverage ratio or fail to meet a specified fixed charge ratio. The Term Loan Facility is guaranteed by us and certain of our subsidiaries.

We are subject to customary covenants substantially similar to those for the Credit Facility including, but not limited to, (1) affirmative covenants relating to our corporate structure and ownership, maintenance of insurance, compliance with environmental laws and preparation of environmental reports, (2) negative covenants relating to restrictions on liens, indebtedness, certain investments (including loans and certain advances), mergers and other fundamental changes, sales and other dispositions of property or assets and transactions with affiliates, maintenance of our REIT qualification and listing on the NYSE or NASDAQ, and (3) financial covenants to be met by us at all times including a maximum total leverage ratio (65% through March 31, 2013, and 60% thereafter), maximum secured recourse indebtedness ratio, excluding the indebtedness under the Term Loan Facility and the Credit Facility (15%), minimum fixed charge coverage ratio (1.35 to 1.00 through March 31, 2013, and 1.50 to 1.00 thereafter), and minimum consolidated tangible net worth (\$237.1 million plus 80% of the net proceeds of equity issuances occurring after the closing date of the Term Loan Facility). In addition to the covenants above, we are also subject to a debt service coverage ratio (1.30 to 1.00 or greater), which is based on our net operating income attributable to the borrowing base properties.

In December 2010, we repaid \$50.0 million outstanding under the 2008 amended senior secured term facility (the 2008 Term Loan ) in full and there was no amount outstanding as of December 31, 2010.

***Notes Payable***

In April 2011, we refinanced a \$5.1 million mortgage note payable on our English Road Medical Center property. The principal balance was unchanged and the note matures in April 2016. The interest rate decreased from 6.0% to 5.0% and with monthly principal and interest payments based approximately on a 25-year amortization.

In March 2011, we began construction on a new project located in Duluth, Minnesota. We obtained construction financing with a maximum principal balance of \$19.5 million and an interest rate of LIBOR plus 3.25%, with a minimum interest rate of 5.5%. Monthly payments are interest only during the construction period and thereafter will be principal and interest based on a 25-year amortization. The mortgage note matures in September 2016.

**Table of Contents****COGDELL SPENCER INC.****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS****Scheduled maturities**

Our mortgages are collateralized by property and principal and interest payments are generally made monthly. Scheduled maturities of mortgages and notes payable (excluding amortized premium) under the Credit Facility and the Term Loan Facility as of December 31, 2011, are as follows (in thousands):

|                             | September 30, |
|-----------------------------|---------------|
| <b>For the year ending:</b> |               |
| 2012                        | \$ 21,516     |
| 2013                        | 17,626        |
| 2014                        | 256,765       |
| 2015                        | 22,312        |
| 2016                        | 22,423        |
| Thereafter                  | 112,953       |
|                             | \$ 453,595    |

As of December 31, 2011, we had \$21.5 million of principal and maturity payments related to mortgage notes payable due in 2012. The \$21.5 million is comprised of \$5.1 million for principal amortization and \$16.4 million for maturities. We believe we will be able to refinance or extend the remaining \$16.4 million of 2012 balloon maturities as a result of the current loan to value ratios at individual properties and preliminary discussions with lenders.

**11. Derivative Financial Instruments**

Interest rate swap and interest rate cap agreements are utilized to reduce exposure to variable interest rates associated with certain mortgage notes payable. These agreements involve an exchange of fixed and floating interest payments without the exchange of the underlying principal amount (the notional amount) or a cap on the referenced rate. The interest rate swap and interest rate cap agreements are reported at fair value in the consolidated balance sheet within Other assets or Other liabilities and changes in the fair value, net of tax where applicable, are reported in accumulated other comprehensive income (loss) (AOCI) exclusive of ineffective amounts. Ineffective amounts of change in the fair value, net of tax where applicable, are reported in income. Ineffectiveness may occur due to derivative overperformance, which is generally caused by a lack of notional on the debt or differences in reset terms between the debt and the derivative. The following table summarizes the terms of our interest rate swap agreements and their fair values at December 31, 2011 and December 31, 2010 (dollars in thousands):

| Entity/Property                           | As of December 31, 2011 |               |          |                |                 | December 31, 2011 |           | December 31, 2010 |           |
|---|-------------------------|---------------|----------|----------------|-----------------|-------------------|-----------|-------------------|-----------|
|   | Notional Amount         | Receive Rate  | Pay Rate | Effective Date | Expiration Date | Asset             | Liability | Asset             | Liability |
| River Hills Medical Plaza                 | \$ 2,943                | 1 Month LIBOR | 1.78%    | 1/15/2009      | 1/31/2012       | \$                | \$ 4      | \$                | \$ 50     |
| HealthPartners Medical Office Building    | 11,572                  | 1 Month LIBOR | 3.55%    | 6/1/2010       | 11/1/2014       |                   | 960       |                   | 899       |
| Lancaster ASC MOB                         | 10,138                  | 1 Month LIBOR | 4.03%    | 3/14/2008      | 3/2/2015        |                   | 1,032     |                   | 938       |
| Bonney Lake MOB Investors LLC             | 11,474                  | 1 Month LIBOR | 3.19%    | 10/1/2011      | 10/1/2016       |                   | 1,053     |                   |           |
| Woodlands Center for Specialized Medicine | 16,311                  | 1 Month LIBOR | 4.71%    | 4/1/2010       | 10/1/2018       |                   | 3,323     |                   | 2,200     |
| Medical Center Physicians Tower           | 14,450                  | 1 Month LIBOR | 3.69%    | 9/1/2010       | 3/1/2019        |                   | 2,001     |                   | 921       |
| University Physicians Grants Ferry        | 10,219                  | 1 Month LIBOR | 3.70%    | 10/1/2010      | 4/1/2019        |                   | 1,426     |                   | 654       |
| East Jefferson Medical Plaza              | n/a                     | n/a           | n/a      | n/a            | n/a             |                   |           |                   | 173       |
| Beaufort Medical Plaza <sup>(1)</sup>     | n/a                     | n/a           | n/a      | n/a            | n/a             |                   |           |                   | 107       |

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|   |     |     |     |     |          |          |
|---|-----|-----|-----|-----|----------|----------|
| Cogdell Spencer LP <sup>(1)</sup>                     | n/a | n/a | n/a | n/a | n/a      | 162      |
| St. Francis Community MOB LLC <sup>(1)</sup>          | n/a | n/a | n/a | n/a | n/a      | 102      |
| St. Francis Medical Plaza (Greenville) <sup>(1)</sup> | n/a | n/a | n/a | n/a | n/a      | 109      |
|   |     |     |     |     | \$ 9,799 | \$ 6,315 |

(1) Interest rate swap agreement expired 2011.

The following table summarizes the terms of the interest rate cap agreement and its fair value at December 31, 2011 and December 31, 2010 (dollars in thousands):

| Entity/Property             | As of December 31, 2011 |               |             |                |                 | December 31, 2011 |           | December 31, 2010 |           |
|-----------------------------|-------------------------|---------------|-------------|----------------|-----------------|-------------------|-----------|-------------------|-----------|
|                             | Notional Amount         | Receive Rate  | Strike Rate | Effective Date | Expiration Date | Asset             | Liability | Asset             | Liability |
| Rocky Mount Medical Park LP | \$ 10,100               | 1 Month LIBOR | 3.00%       | 2/1/2011       | 10/22/2014      | \$ 15             | \$        | \$                | \$        |



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The following table shows the effect of our derivative financial instruments designated as cash flow hedges (in thousands):

|                     | September 30,<br>Gain or (Loss)<br>Recognized in AOCI,<br>Noncontrolling<br>Interests in<br>Operating<br>Partnership, and<br>Noncontrolling<br>Interests in Real<br>Estate Partnerships -<br>Effective Portion (1) | September 30,<br>Location of Gain<br>or<br>(Loss) Reclassified<br>from AOCI,<br>Noncontrolling<br>Interests in<br>Operating<br>Partnership,<br>and<br>Noncontrolling<br>Interests in Real<br>Estate Partnerships<br>into Income -<br>Effective Portion | September 30,<br>Gain or (Loss)<br>Reclassified<br>from<br>AOCI,<br>Noncontrolling<br>Interests in<br>Operating<br>Partnership,<br>and<br>Noncontrolling<br>Interests in Real<br>Estate Partnerships<br>into Income -<br>Effective Portion (1) | September 30,<br>Location of Gain or<br>(Loss) Recognized -<br>Ineffective Portion<br>and Amount<br>Excluded from<br>Effectiveness<br>Testing | September 30,<br>Gain or<br>(Loss)<br>Recognized -<br>Ineffective<br>Portion<br>and Amount<br>Excluded<br>from<br>Effectiveness<br>Testing |
|---------------------|--|--|--|---|--|
| For the year ended: |  |  |  |   |  |
| December 31, 2011   | \$ (3,633)   | Interest Expense   | \$ (3,184)   | Interest rate derivative expense  | \$   |
| December 31, 2010   | \$ (2,328)   | Interest Expense   | \$ (2,390)   | Interest rate derivative expense  | \$ (371)   |

<sup>(1)</sup> Refer to the Consolidated Statement of Changes in Equity, which summarizes the activity in unrealized gain (loss) on derivative financial instruments, net of tax related to the interest rate swap and interest rate cap agreements.

The following tables present information about our assets and liabilities measured at fair value on a recurring basis for the periods shown, and indicates the fair value hierarchy referenced in Note 2 of these Consolidated Financial Statements of the valuation techniques utilized by us to determine such fair value (in thousands):

|                               | September 30,<br>Total | September 30,<br>Fair Value Measurements as of<br>December 31, 2011<br>Level 1 | September 30,<br>Level 2 | September 30,<br>Level 3 |
|-------------------------------|------------------------|--|--------------------------|--------------------------|
| <b>Assets-</b>                |                        |  |                          |                          |
| Interest rate cap agreement   | \$ 15                  | \$   | \$ 15                    | \$                       |
| <b>Liabilities-</b>           |                        |  |                          |                          |
| Interest rate swap agreements | \$ (9,799)             | \$   | \$ (9,799)               | \$                       |
|                               | September 30,<br>Total | September 30,<br>Fair Value Measurements as of<br>December 31, 2010<br>Level 1 | September 30,<br>Level 2 | September 30,<br>Level 3 |
| <b>Liabilities-</b>           |                        |  |                          |                          |
| Interest rate swap agreements | \$ (6,315)             | \$   | \$ (6,315)               | \$                       |

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The valuation of derivative financial instruments is determined using widely accepted valuation techniques including discounted cash flow analysis on the expected cash flows of each derivative. The fair values of variable to fixed interest rate swaps are determined using the market standard methodology of netting the discounted future fixed cash payments and the discounted expected variable cash receipts. The variable cash receipts are based on an expectation of future interest rate forward curves derived from observable market interest rate curves. We incorporate credit valuation adjustments to appropriately reflect both our nonperformance risk and the respective counterparty's nonperformance risk in the fair value measurements. In adjusting the fair value of our derivative contracts for the effect of nonperformance risk, we have considered the impact of netting and any applicable credit enhancements, such as collateral postings, thresholds, mutual puts, and guarantees.

The MEA Holdings, LLC \$100.0 million interest rate swap agreement was designated as a hedge instrument from its inception through June 3, 2009, the date of the \$50.0 million repayment and amendment of the 2008 Term Loan. The agreement was not designated as a hedge instrument from June 4, 2009, through July 19, 2009. On July 20, 2009, the agreement was re-designated as a hedge instrument and was used to fix the floating rate portion on \$50.0 million outstanding under the 2008 Term Loan and \$50.0 million outstanding under the Credit Facility. On May 19, 2010, we repaid \$25.0 million that was outstanding under the Credit Facility. Due to the outstanding one month LIBOR variable rate debt falling to a level that the hedge designation no longer supported, the swap was de-designated on May 19, 2010. The agreement was not designated as a hedge instrument from May 20, 2010, through May 24, 2010. On May 25, 2010, the agreement was re-designated as a hedge instrument and was used to fix the floating rate portion on the \$50.0 million outstanding under the 2008 Term Loan and \$25.0 million outstanding under the Credit Facility. On December 20, 2010, we terminated the \$100.0 million interest rate swap agreement and paid a termination fee, inclusive of accrued interest, of \$0.6 million.

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Construction in progress at December 31, 2011, consisted of the following (dollars in thousands):

| <b>Property</b>                        | <b>September 30,<br/>Location</b> | <b>September 30,<br/>Estimated<br/>Completion<br/>Date</b> | <b>September 30,<br/>Net Rentable<br/>Square Feet<br/>(unaudited)</b> | <b>September 30,<br/>Investment<br/>to Date</b> | <b>September 30,<br/>Estimated<br/>Total<br/>Investment</b> |
|--|-----------------------------------|--|---|---|---|
| St Lukes Medical Office Building       | Duluth, MN                        | 3Q 2012  | 176,000   | \$ 10,043                                       | \$ 27,800   |
| Land and pre-construction developments |                                   |  |   | 2,214   |   |
|  |                                   |  | 176,000   | \$ 12,257                                       | \$ 27,800   |

As of December 31, 2011, we did not have any material purchase commitments outstanding.

***Operating Leases***

We make payments under operating lease agreements relating to building leases, equipment leases, and ground and air rights leases related to many of our properties. Rent expense for the year ended December 31, 2011 was \$5.3 million. Future minimum lease commitments under these leases are as follows:

| <b>For the year ending:</b> | <b>September 30,</b> |
|-----------------------------|----------------------|
| 2012                        | \$ 5,319             |
| 2013                        | 4,828                |
| 2014                        | 4,359                |
| 2015                        | 4,184                |
| 2016                        | 3,741                |
| Thereafter                  | 42,463               |
|                             | \$ 64,894            |

Many of the ground and air rights leases effectively limit our control over various aspects of the operation of the applicable building, restrict our ability to transfer the building and allow the lessor the right of first refusal to purchase the building and improvements. All the ground and air rights leases provide for the property to revert to the lessor for no consideration upon the expiration of the ground and air rights lease. Many of the ground and air rights leases have extension options. At December 31, 2011, we hold 34 ground and air rights leases that are due to expire between the years 2017 and 2111.

***Tax Protection Agreements***

In connection with the formation of the Operating Partnership, we entered into a tax protection agreement with the former owners of each contributed property who received limited partnership units in the Operating Partnership.

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Pursuant to these agreements, we will not sell, transfer or otherwise dispose of any of the properties (each a protected asset ) or any interest in a protected asset prior to the eighth anniversary of our initial public offering, which was in 2005, unless:

a majority-in-interest of the former holders of interests in the predecessor partnerships or contributing entities (or their successors, which may include us to the extent any OP units have been redeemed or exchanged) with respect to such protected asset consent to the sale, transfer or other disposition; provided, however, with respect to three of the predecessor entities, Cabarrus POB, LLC, Medical Investors I, LLC and Medical Investors III, LLC, the required consent shall be a majority-in-interest of the beneficial owners of interests in the predecessor entities other than Messrs. Cogdell and Spencer and their affiliates; or

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**COGDELL SPENCER INC.**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

the Operating Partnership delivers to each such holder of interests, a cash payment intended to approximate the holder's tax liability related to the recognition of such holder's built-in gain resulting from the sale of such protected asset; or

the sale, transfer or other disposition would not result in the recognition of any built-in gain by any such holder of interests.

***Litigation***

In the normal course of business, we are subject to claims, lawsuits and legal proceedings. While it is not possible to ascertain with certainty the ultimate outcome of such matters, in our opinion, the liabilities, if any, in excess of amounts provided or covered by insurance, are not expected to have a material adverse effect on our consolidated financial position, results of operations or liquidity.

On December 29, 2011, a complaint was filed in the Superior Court for State of North Carolina, Mecklenburg County, against us, our directors and Ventas on behalf of a putative class of similarly situated investors, alleging that the our board of directors breached its fiduciary duties regarding the Company Merger and that Ventas aided and abetted the alleged breach of fiduciary duties. Beginning on January 4, 2012, six other putative class action suits were filed in the Maryland Circuit Court for Baltimore City against the same defendants and alleging similar breach of fiduciary duty and aiding and abetting claims, although certain complaints also named our Operating Partnership, MergerSub and OP MergerSub as defendants. On January 27, 2012, we also received a letter from an entity purporting to be a stockholder demanding that the board terminate the Company Merger and the sale of the Erdman business and that the board conduct an investigation into the Company Merger and the sale of the Erdman business. The letter also made a request for access to certain books and records of the company related to the Company Merger and the sale of the Erdman business. The cases pending in Maryland were consolidated by the Court on January 31, 2012. On February 3, 2012, the plaintiff in the North Carolina action filed an amended complaint, and on February 9, 2012, the plaintiffs in the Maryland action filed an amended complaint, including the class and derivative actions. All of the pending cases ask that the Company Merger be enjoined and seek other unspecified monetary relief. On February 21, 2012, defendants moved to dismiss the amended complaint.

On February 29, 2012, we entered into a memorandum of understanding with the plaintiffs in the Maryland and North Carolina cases regarding the settlement of the pending claims. Pursuant to the terms of the proposed settlement, we agreed to make certain supplemental disclosures related to the proposed Company Merger. The memorandum of understanding contemplates that the parties will enter into a settlement agreement after a period of confirmatory discovery, which will be subject to customary conditions, including court approval following notice to our stockholders. In the event the parties enter into a settlement agreement, a hearing will be scheduled in which the Maryland Court will consider the fairness, reasonableness, and adequacy of the settlement. If the settlement is finally approved by the Court, it will resolve and release all claims in all actions that were or could have been brought challenging any aspect of the proposed Merger, the Merger Agreement, and any disclosure made in connection therewith, among other claims, pursuant to terms that will be disclosed to stockholders prior to final approval of the settlement.

In addition, in connection with the settlement, the parties contemplate that plaintiffs' counsel will file a petition in the Maryland Court for an award of attorneys' fees and expenses to be paid by or on behalf of Defendants, which Defendants may oppose. Defendants will pay or cause to be paid any attorneys' fees and expenses awarded by the Maryland Court. There can be no assurance that the parties will ultimately enter into a settlement agreement or that the Maryland Court will approve the settlement even if the parties were to enter into a settlement agreement. In such event, the proposed settlement as contemplated by the memorandum of understanding may be terminated.

One of the conditions to the closing of the Mergers is that no decree, ruling, judgment, decision, order or injunction shall have been entered by any court of competent jurisdiction that has the effect of prohibiting or restraining the completion of the Mergers. If for any reason the cases are not settled and if any of the plaintiffs are successful in obtaining an injunction prohibiting the defendants from completing the Mergers, then such injunction may prevent the Mergers from becoming effective or from becoming effective within the expected timeframe. [In addition, if any suit, action or proceeding before any court or other governmental entity shall have been instituted or shall be pending, with respect to certain matters

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disclosed in the merger agreement disclosure schedule, where an unfavorable outcome in such suit, action or proceeding would, in the sole and absolute discretion of Ventas, adversely affect the anticipated business or economic benefits to Ventas and its affiliates of the transactions contemplated by the merger agreement, the Mergers will not be completed. If completion of the Mergers is prevented or delayed, it could result in substantial costs to us. In addition, we could incur costs associated with the indemnification of our directors and officers.

For the year ended December 31, 2011, an arbitrator awarded \$2.5 million to plaintiffs in a case in which we were named as the defendant. We accrued \$1.5 million of this award during 2011 and accrued \$1.0 million during 2009. We paid the \$2.5 million award in 2011.

For the year ended December 31, 2011, we settled a separate case for \$0.5 million in cash in which we were the plaintiff. We recorded a litigation gain of \$0.5 million in 2011.

***Indemnities***

At times we may be obligated per agreement to indemnify another party with respect to certain matters. Typically, these obligations arise in contracts into which we enter, under which we customarily agree to hold the other party harmless against certain losses arising from breaches of representations, warranties and/or covenants related to such matters as, among others, title to assets, specified environmental matters, qualification to do business, due organization, non-compliance with restrictive covenants, laws, rules and regulations, maintenance of insurance and payment of tax bills due and owing. Additionally, with respect to office lease agreements that are entered into as landlord, we may also indemnify the other party against damages caused by our willful misconduct or negligence associated with the operation and management of the building. Although no assurances with certainty can be made, it is believed that if we were to incur a loss in any of these matters, such loss would not have a material effect on our financial condition or results of operations. Historically, payments made with regard to these agreements have not had a material effect on our financial condition or results of operations.

***Employees***

We have employment agreements with certain of our executive officers, the terms of which expire at various times through 2013. Such agreements, which have been revised from time to time, provide for salary amounts and cash and equity incentive bonuses that are payable if specified annual management goals or project completions are attained. The aggregate commitment for future salaries at December 31, 2011, excluding bonuses, was approximately \$1.4 million.

**13. Equity*****Preferred Shares***

There were 2.9 million shares of our 8.500% Series A cumulative redeemable perpetual preferred stock ( Series A preferred shares ) outstanding at December 31, 2011. The Series A preferred shares have no stated maturity and are not subject to any sinking fund or mandatory redemption. Upon certain circumstances upon a change of control, the Series A preferred shares are convertible to common shares. Holders of Series A preferred shares have no voting rights, except under limited conditions, and holders are entitled to receive cumulative preferential dividends. Dividends are payable quarterly in arrears on the first day of March, June, September, and December.

The following is a summary of changes of our Series A preferred shares for the years ended December 31, 2011, 2010, and 2009 (in thousands):

|   | September 30,<br>December 31,<br>2011 | September 30,<br>December 31,<br>2010 | September 30,<br>December 31,<br>2009 |
|---|---------------------------------------|---------------------------------------|---------------------------------------|
|   | For the Twelve Months Ended           |                                       |                                       |
| Preferred shares at beginning of period | 2,600                                 |                                       |                                       |

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|                                   |       |       |
|-----------------------------------|-------|-------|
| Issuance of preferred shares      | 340   | 2,600 |
| Preferred shares at end of period | 2,940 | 2,600 |

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An Operating Partnership unit ( OP Unit ) and a share of our common stock have essentially the same economic characteristics as they share equally in the total net income or loss and distributions of the Operating Partnership. An OP Unit may be tendered for redemption for cash; however, we have sole discretion and a sufficient amount of authorized common stock to exchange OP Units for shares of common stock on a one-for-one basis.

Long Term Incentive Plan Units ( LTIP Units ) are a special class of partnership interests in the Operating Partnership. Each LTIP Unit awarded will be deemed equivalent to an award of one share of common stock under the 2005 and 2010 long-term stock incentive plans, reducing the availability for other equity awards on a one-for-one basis. The vesting period for LTIP Units, if any, will be determined at the time of issuance. Cash distributions on each LTIP Unit, whether vested or not, will be the same as those made on the OP Units. Under the terms of the LTIP Units, the Operating Partnership will revalue for tax purposes its assets upon the occurrence of certain specified events, and any increase in valuation from the time of grant until such event will be allocated first to the holders of LTIP Units to equalize the capital accounts of such holders with the capital accounts of OP Unitholders. Subject to any agreed upon exceptions, once vested and the capital accounts of the LTIP Units are equalized, then such LTIP Units are convertible into OP Units in the Operating Partnership on a one-for-one basis.

As of December 31, 2011, there were 58.6 million OP Units outstanding, of which 51.2 million, or 87.4%, were owned by us and 7.4 million, or 12.6%, were owned by other partners, including certain directors, officers and other members of executive management. As of December 31, 2011, the fair market value of the OP Units not owned by us was \$31.4 million, based on a market value of \$4.25 per unit, which was the closing stock price of our shares on December 31, 2011.

The following is a summary of changes of our common stock for the years ended December 31, 2011, 2010, and 2009 (in thousands):

|  | September 30,<br>December 31,<br>2011 | September 30,<br>For the Twelve Months Ended<br>December 31,<br>2010 | September 30,<br>December 31,<br>2009 |
|--|---------------------------------------|--|---------------------------------------|
| Common stock shares at beginning of period | 50,870                                | 42,729   | 17,699                                |
| Issuance of common stock                   |                                       | 7,208  | 23,000                                |
| Conversion of OP Units to common stock     | 249                                   | 376  | 2,017                                 |
| Issuance of restricted stock grants        | 38                                    | 557  | 13                                    |
| Common stock shares at end of period       | 51,157                                | 50,870   | 42,729                                |

The following is net loss attributable to Cogdell Spencer Inc. and the issuance of common stock in exchange for redemptions of OP Units for the years ended December 31, 2011, 2010, and 2009 (in thousands):

|  | September 30,<br>December 31,<br>2011 | September 30,<br>For the Twelve Months Ended<br>December 31,<br>2010 | September 30,<br>December 31,<br>2009 |
|--|---------------------------------------|--|---------------------------------------|
| Net loss attributable to Cogdell Spencer Inc. common shareholders  | \$ (36,961)                           | \$ (104,089)   | \$ (69,728)                           |
| Increase in Cogdell Spencer Inc. additional paid-in capital for the conversion of OP units into common stock | 709                                   | 1,959  | 18,830                                |
|  | \$ (36,252)                           | \$ (102,130)   | \$ (50,898)                           |



Change from net loss attributable to Cogdell Spencer Inc. common shareholders and transfers from noncontrolling interests

***Noncontrolling Interests in Real Estate Partnerships***

Noncontrolling interests in real estate partnerships at December 31, 2011 and 2010 relate to the consolidated entities referenced in Note 4 of these Consolidated Financial Statements. See Note 5 of these Consolidated Financial Statements for additional information regarding our investments in real estate partnerships.

***Dividends and Distributions***

During 2011, we paid four quarterly dividends of \$0.10 per share or unit, totaling \$0.40 per share or unit for the year. These quarterly distributions were paid in January, April, July, and October 2011. Total dividends paid to common stockholders during 2011 were \$20.3 million. Total distributions paid to OP Unitholders, excluding inter-company distributions, during 2011 totaled \$3.0 million.

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On December 19, 2011, we announced that our Board of Directors had declared a quarterly dividend of \$0.10 per share and operating partnership unit that was paid in cash on January 19, 2012 to holders of record on December 27, 2011.

On February 2, 2012, we announced that our Board of Directors had declared a quarterly dividend of \$0.531 per share on our Series A preferred shares for the period from December 1, 2011, to February 29, 2012. The dividend was paid on March 1, 2012, to shareholders of record on February 16, 2012.

Earnings and profits, which determine the tax treatment of distributions to stockholders, will differ from income reported for financial reporting purposes due to the differences for federal income tax purposes, including, but not limited to, treatment of loss on extinguishment of debt, revenue recognition, compensation expense, and basis of depreciable assets and estimated useful lives used to compute depreciation.

The dividends of \$0.40 per share paid during 2011 are classified for income tax purposes as 45.0% taxable ordinary dividend, 5.0% capital gain (2.5% long term capital gain and 2.5% unrecaptured Section 1250 gain) and 50.0% return of capital. No portion of the dividends constitutes qualified dividends eligible for the reduced rates on dividends.

**14. Income Taxes**

TRS Holdings is a taxable entity and its consolidated income tax benefit consisted of the following for the years ended December 31, 2011, 2010, and 2009 (in thousands):

|  | September 30,<br>December 31,<br>2011 | September 30,<br>For the Year Ended<br>December 31,<br>2010 | September 30,<br>December 31,<br>2009 |
|--|---------------------------------------|---|---------------------------------------|
| <b>Current:</b>  |                                       |   |                                       |
| Federal  | \$                                    | \$  | \$ (566)                              |
| State  |                                       |   | (131)                                 |
| Deferred tax expense (benefit) on intersegment profits | 75                                    | 67  | (2,813)                               |
| <b>Total current</b>                                   | <b>75</b>                             | <b>67</b>   | <b>(3,510)</b>                        |
| <b>Deferred:</b>                                       |                                       |   |                                       |
| Federal  |                                       | (14,001)  | (15,679)                              |
| State  |                                       | (2,418)   | (2,935)                               |
| <b>Total deferred</b>                                  |                                       | <b>(16,419)</b>   | <b>(18,614)</b>                       |
| <b>Income tax expense (benefit)</b>                    | <b>\$ 75</b>                          | <b>\$ (16,352)</b>  | <b>\$ (22,124)</b>                    |

The effective income tax rate is 0.2%, (12.7%), and (18.2%) for the years ended December 31, 2011, 2010, and 2009, respectively. The actual tax provision differed from that computed at the federal statutory corporate rate as follows (in thousands):

| September 30, | September 30,<br>For the Year Ended | September 30, |
|---------------|-------------------------------------|---------------|
|---------------|-------------------------------------|---------------|

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|  | December 31,<br>2011 | December 31,<br>2010 | December 31,<br>2009 |
|--|----------------------|----------------------|----------------------|
| Federal tax benefit at 35% statutory rate              | \$ (11,940)          | \$ (48,480)          | \$ (42,505)          |
| State income tax benefit, net of federal benefit       | (1,211)              | (946)                | (1,955)              |
| Deferred tax expense (benefit) on intersegment profits | 75                   | 67                   | (2,813)              |
| Nondeductible expenses, primarily goodwill             | 34                   | 24,534               | 25,016               |
| Valuation allowance                                    | 13,338               | 8,718                |                      |
| Other, net   | (221)                | (245)                | 133                  |
| Income tax expense (benefit)                           | \$ 75                | \$ (16,352)          | \$ (22,124)          |

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The income tax effects of temporary differences that give rise to significant portions of deferred tax assets and deferred tax liabilities are presented below (in thousands):

|   | September 30,<br>As of<br>December 31,<br>2011 | September 30,<br>As of<br>December 31,<br>2010 |
|---|--|--|
| Deferred tax assets:  |  |  |
| Intangibles   | \$ 9,384                                       | \$ 1,844                                       |
| Net operating loss carryforward                               | 6,809  | 3,309  |
| Deferred interest expense                                     | 4,343  | 3,640  |
| Accrued expenses and other items                              | 1,763  | 2,513  |
| Allowance for doubtful accounts receivable                    | 1,158  | 1,158  |
| Other items   | 792  |  |
| Total deferred tax assets                                     | 24,249   | 12,464   |
| Deferred tax liabilities:                                     |  |  |
| Corporate property, plant, and equipment                      |  | (1,107)  |
| Intangibles   |  | (450)  |
| Prepaid expenses  | (300)  | (303)  |
| Other items   | (58)   | (51)   |
| Total deferred tax liabilities                                | (358)  | (1,911)  |
| Net deferred tax asset (liability) before valuation allowance | 23,891   | 10,553   |
| Valuation allowance   | (23,891)                                       | (10,553)                                       |
| Net deferred tax liability                                    | \$   | \$   |

When goodwill is impaired, such impairment is treated as being of permanent in character (meaning it has no effect on deferred taxes) unless the amount that the goodwill is being impaired to is less than the original amount of tax basis in goodwill. If the amount that goodwill is impaired to is less than the original amount of tax basis in the goodwill there will be an adjustment to deferred taxes. There was an \$8.9 million and \$6.3 million benefit under the policy described above for the years ended December 31, 2011 and 2010, respectively.

At December 31, 2011, there was \$4.3 million of deferred tax assets related to inter-company interest expense, which has an unlimited carryforward period, \$5.7 million related to federal net operating loss carryforwards that will begin to expire in 2030, and \$1.1 million related to state net operating loss carryforwards that will expire between 2015 and 2031.

TRS Holdings has experienced cumulative losses over the past three years. Consequently, significant negative objective evidence exists as to the realizability of the deferred tax assets. As a result, a full valuation allowance has been recorded against net deferred tax assets as it is more likely than not that these net deferred tax assets will not be realized. To the extent that TRS Holdings generates taxable income, the valuation allowance may be reduced to fully or partially offset the corresponding income tax expense. Any remaining deferred tax asset valuation allowance may ultimately reverse through income tax expense when TRS Holdings can demonstrate a sustainable return to profitability that would lead management to conclude that it is more likely than not that the deferred tax asset will be utilized.

There was an insignificant amount of penalties or interest recorded during the years ended December 31, 2011, 2010, and 2009. We have an insignificant amount of unrecognized tax benefits. For tax years 2008, 2009, 2010 and 2011, the United States federal and state tax returns are

open for examination.

### **15. Incentive and Share-Based Compensation**

Our 2005 and 2010 Long-Term Stock Incentive Plans ( Incentive Plans ) provides for the grant of incentive awards to employees, directors and consultants to attract and retain qualified individuals and reward them for superior performance in achieving the Company's business goals and enhancing stockholder value. Awards issuable under the incentive award plan include stock options, restricted stock, dividend equivalents, stock appreciation rights, LTIP units, cash performance bonuses and other incentive awards. Only employees are eligible to receive incentive stock options under the incentive award plan. We have reserved a total of 2,512,000 shares of common stock for issuance pursuant to the incentive award plan, subject to certain adjustments set forth in the plan. Each LTIP unit issued under the incentive award plan will count as one share of stock for purposes of calculating the limit on shares that may be issued under the plan. A total of 763,117 shares of common stock are available for future grant under the Incentive Plans at December 31, 2011.

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We recognized total incentive compensation expenses of \$0.9 million, \$1.6 million, and \$1.7 million for the years ended December 31, 2011, 2010, and 2009, respectively.

In September 2010, we issued 447,094 shares of restricted common stock to our President and Chief Executive Officer, Mr. Raymond Braun, as a performance award grant. The restricted common stock vests, subject to the satisfaction of pre-established performance measures, 100% on December 31, 2013, or earlier if Mr. Braun is terminated without cause. The restricted common stock was valued at \$5.99 per share, the closing common stock price on the NYSE on the grant date for accounting purposes of June 30, 2011, which was the date our Board of Directors approved the performance criteria. At December 31, 2011, we have no expense accrued as it is not probable that we will meet the specified performance measures. Upon a change of control of the Company, these shares of restricted common stock will vest immediately upon the change of the control event.

In March 2008, we issued an aggregate 156,740 LTIP units, of which 20%, or 31,347, vested upon issuance. The remaining 80% will vest if, and when, we achieve certain performance standards as provided in the awards. The one time award was granted in recognition of the role played by certain employees in guiding us through the acquisition of MEA Holdings, Inc. The LTIP units were valued at \$15.72 per unit, which was our closing stock price on the grant date. Any portions of the unvested LTIP units that are not vested as of December 2015 are forfeited. During 2011, 18,227 LTIP Units vested in connection with Mr. Cogdell's retirement agreement. During 2010, 48,738 LTIP units vested in connection with Mr. Spencer's retirement agreement. During 2008, 7,524 LTIP units were forfeited due to a termination of employment. We have assessed the probability of the performance conditions being achieved and have recorded no compensation expense in 2009 and 2010 related to these awards.

The following is a summary of restricted stock and LTIP unit activity for the year ended December 31, 2011 (in thousands, except weighted average grant price):

|                                       | September 30,<br>Restricted<br>Stock | September 30,<br>LTIP Units | September 30,<br>Weighted<br>Average<br>Grant Price |
|---------------------------------------|--------------------------------------|-----------------------------|---|
| Unvested balance at January 1, 2011   | 75                                   | 65                          | \$ 10.69  |
| Granted                               | 464                                  | 244                         | 4.98  |
| Vested                                | (17)                                 | (246)                       | 5.29  |
| Forfeited                             |                                      | (20)                        | 11.71   |
| Unvested balance at December 31, 2011 | 522                                  | 43                          | \$ 6.62   |

The outstanding unvested awards as of December 31, 2011 are scheduled to vest as follows, subject where applicable to the achievement of performance targets. As described above, certain performance targets are not yet established.

| Vesting Date | September 30,<br>Restricted<br>Stock | September 30,<br>LTIP<br>Units |
|--------------|--------------------------------------|--------------------------------|
| 2011         |                                      |                                |
| 2012         |                                      | 3                              |
| 2013         | 522                                  | 3                              |
| 2014         |                                      | 3                              |
| 2015         |                                      | 34                             |

Total 522 43

**16. 401(k) Savings Plans**

We sponsor a 401(k) plan covering substantially all of our corporate and Property Operations employees. The plan provides for matching as well as profit-sharing contributions. Profit-sharing contributions are made at our management's discretion and are allocated to participants based on their level of compensation. Profit-sharing contributions were not paid in 2011, 2010, or 2009. We matched 0% of the employees' contributions to the plan in 2011 and 2010 and matched 100% of the employees' contributions to the plan up to a maximum of 4% of compensation in 2009. The 401(k) matching expense for the years ended December 31, 2011 and 2010 was zero and for the years ended December 31, 2009 was approximately \$0.1 million.

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**COGDELL SPENCER INC.**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

We sponsor a 401(k)/profit sharing plan covering substantially all of our Design-Build and Development salaried employees. We determine the contribution to the plan annually and are limited, by law, to 25% of the annual aggregate compensation of those employees eligible for participation in the plan. There were no profit sharing contributions made during the year ended 2011, 2010, or 2009. The total expense charged to Costs related to contract and other revenues and Selling, general, and administrative expenses for this plan for the year ended December 31, 2009 was approximately \$0.7 million and \$0.2 million, respectively.

**17. Related Party Transactions**

During 2009, we had certain design-build contracts for the construction of healthcare facilities with certain entities in which Mr. Lubar, a member of our Board of Directors during 2009, had an indirect ownership interest. In addition, Mr. Ransom, both a member of our Board of Directors and an employee during 2009, and certain members of senior management have a direct ownership in the entities. The total amount of the contracts was \$30.7 million and construction was in process at the time we acquired our Design-Build and Development operations.

During 2009, construction was completed and we recognized \$3.0 million in revenue. As of December 31, 2009, we had no accounts receivable or billings in excess of costs and estimated earnings on uncompleted contracts. There was no activity related to these projects during the year 2011 or 2010.

**18. Additional Information**

During 2010, we incurred a \$2.5 million charge, net of tax benefit, related to the retirement of our Chief Executive Officer and a \$1.5 million charge related to the retirement of our former chairman of the Board, Mr. Cogdell, in accordance with their employment agreements. These expenses are included in selling, general and administrative in the consolidated statement of operations.

During 2009, we explored a range of strategic alternatives that included: an assessment of potential change of control transactions; asset dispositions and acquisitions; business and portfolio combinations; debt financings and refinancings. For the year ended December 31, 2009, the selling, general and administrative expense associated with this exercise totaled approximately \$2.6 million and included fees for consultants, accountants, attorneys, and other service providers.



**Table of Contents****COGDELL SPENCER INC.****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS****19. Selected Quarterly Financial Information (unaudited)**

The tables below reflect our selected quarterly information for the years ended December 31, 2011 and 2010 (in thousands, except per share amounts).

|  | September 30,<br>December 31,<br>2011 | September 30,<br>September 30,<br>2011 | September 30,<br>Three Months Ended<br>June 30, 2011 | September 30,<br>March 31,<br>2011 |
|--|---------------------------------------|--|--|------------------------------------|
| Total revenue  | \$ 50,638                             | \$ 47,177                              | \$ 41,578  | \$ 39,144                          |
| Loss from continuing operations available to Cogdell Spencer Inc. common shareholders            | \$ (27,011)                           | \$ (1,834)                             | \$ (4,986)   | \$ (3,130)                         |
| Net loss available to Cogdell Spencer Inc. common shareholders                                   | \$ (27,011)                           | \$ (1,834)                             | \$ (4,986)   | \$ (3,130)                         |
| Per share basic and diluted:   |                                       |  |  |                                    |
| Net loss per common share available to Cogdell Spencer Inc. common shareholders                  | \$ (0.53)                             | \$ (0.04)                              | \$ (0.10)  | \$ (0.06)                          |
| Weighted average shares basic and diluted  | 51,125                                | 51,080                                 | 51,058   | 51,009                             |
|  | December 31,<br>2010                  | September 30,<br>2010                  | Three Months Ended<br>June 30, 2010                  | March 31,<br>2010                  |
| Total revenue  | \$ 48,498                             | \$ 39,309                              | \$ 37,009  | \$ 57,602                          |
| Income (loss) from continuing operations available to Cogdell Spencer Inc. common shareholders   | \$ (93,515)                           | \$ (1,838)                             | \$ (12,267)  | \$ 3,301                           |
| Income (loss) from discontinued operations available to Cogdell Spencer Inc. common shareholders |                                       |  | 246  | (15)                               |
| Net income (loss) available to Cogdell Spencer Inc. common shareholders                          | \$ (93,515)                           | \$ (1,838)                             | \$ (12,021)  | \$ 3,286                           |
| Per share basic and diluted:   |                                       |  |  |                                    |
| Net income (loss) per common share available to Cogdell Spencer Inc. common shareholders         | \$ (1.84)                             | \$ (0.04)                              | \$ (0.26)  | \$ 0.08                            |
| Weighted average shares basic and diluted  | 50,745                                | 50,083                                 | 46,111   | 42,768                             |



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## SCHEDULE REAL ESTATE AND ACCUMULATED DEPRECIATION

## COGDELL SPENCER INC.

## SCHEDULE III

## REAL ESTATE AND ACCUMULATED DEPRECIATION

(in thousands)

| Property Name                               | Location       | Encumbrances | Initial Costs (I) |                               |             | Cost Capitalized |                               | Gross Amount at Which Carried at December 31, 2011 |                              |         | Date Constructed (C) | Date Acquired |
|---|----------------|--------------|-------------------|-------------------------------|-------------|------------------|-------------------------------|--|------------------------------|---------|----------------------|---------------|
|   |                |              | Land              | Building and Improvements (A) | Development | Acquisition or   | Building and Improvements (A) | Total (B)  | Accumulated Depreciation (B) |         |                      |               |
| Verdugo Hills Professional Bldg I           | California     | (H)          | \$ 1,218          | \$ 8,228                      | \$ 1,946    | \$ 1,226         | \$ 10,166                     | \$ 11,392  | \$ 3,249                     | 1972    | 2006                 |               |
| Verdugo Hills Professional Bldg II          | California     | (H)          | 3,531             | 8,915                         | 1,348       | 3,555            | 10,239                        | 13,794   | 2,697                        | 1987    | 2006                 |               |
| Woodlands Center for Specialized Med (J)    | Florida        |              | 16,311            | 4,038                         | 18,443      | 60               | 4,038                         | 18,503   | 22,541                       | 1,328   | 2009(K)              | 2008(K)       |
| Augusta POB I                               | Georgia        | (H)          | 259               | 8,431                         | 2,600       | 260              | 11,030                        | 11,290   | 3,387                        | 1978    | 2005                 |               |
| Augusta POB II                              | Georgia        | (H)          | 602               | 10,646                        | 1,639       | 605              | 12,282                        | 12,887   | 3,787                        | 1987    | 2005                 |               |
| Augusta POB III                             | Georgia        | (H)          | 339               | 3,986                         | 681         | 341              | 4,665                         | 5,006  | 1,520                        | 1994    | 2005                 |               |
| Augusta POB IV                              | Georgia        | (H)          | 551               | 4,672                         | 632         | 554              | 5,301                         | 5,855  | 1,752                        | 1995    | 2005                 |               |
| Summit Professional Plaza I                 | Georgia        |              | 5,096             | 1,180                         | 6,021       | 20               | 1,181                         | 6,040  | 7,221                        | 982     | 2004                 | 2007          |
| Summit Professional Plaza II                | Georgia        |              | 10,829            | 2,000                         | 12,684      | 213              | 2,001                         | 12,896   | 14,897                       | 1,822   | 1998                 | 2007          |
| Methodist Professional Center One           | Indiana        | (M)          |                   | 37,830                        | 4,642       |                  | 42,472                        | 42,472   | 9,132                        | 1985    | 2006                 |               |
| OLBH Same Day Surgery Ctr, MOB, Garage      | Kentucky       | (H)          |                   | 13,938                        | 374         |                  | 14,312                        | 14,312   | 4,068                        | 1997    | 2005                 |               |
| St. Elizabeth Covington                     | Kentucky       |              |                   | 11,415                        |             |                  | 11,415                        | 11,415   | 144                          | 2009    | 2011                 |               |
| St. Elizabeth Florence Medical Office Bldg  | Kentucky       | (M)          |                   | 5,306                         | 15          |                  | 5,321                         | 5,321  | 175                          | 2005    | 2011                 |               |
| East Jefferson Medical Plaza                | Louisiana      | (M)          |                   | 16,525                        | 226         |                  | 16,751                        | 16,751   | 2,474                        | 1996    | 2008                 |               |
| East Jefferson MOB                          | Louisiana      |              | 8,486             | 12,239                        | 1,214       |                  | 13,453                        | 13,453   | 3,977                        | 1985    | 2005                 |               |
| Health Partners Medical & Dental Clinics    | Minnesota      |              | 11,817            | 2,343                         | 12,737      | 2,343            | 12,737                        | 15,080   | 822                          | 2010(K) | 2009(K)              |               |
| University Physicians Grants Ferry          | Mississippi    |              | 10,219            | 1,787                         | 11,571      | 1,787            | 11,571                        | 13,358   | 648                          | 2010(K) | 2009(K)              |               |
| Central New York Medical Center and Garage  | New York       |              | 24,500            | 2,112                         | 32,700      | 212              | 2,113                         | 32,911   | 35,024                       | 4,037   | 1997                 | 2007          |
| Alamance Regional Mebane Outpatient Ctr (J) | North Carolina |              | 12,334            | 15,757                        | 2,516       |                  | 18,273                        | 18,273   | 2,388                        | 2008(K) | 2007(K)              |               |
| Barclay Downs                               | North Carolina |              | 4,172             | 2,084                         | 3,363       | 431              | 2,097                         | 3,781  | 5,878                        | 1,851   | 1987                 | 2005          |
| Birkdale II                                 | North Carolina | (H)          | 142               | 992                           | 73          | 142              | 1,065                         | 1,207  | 336                          | 2001    | 2005                 |               |
| Birkdale Wellness, Bldgs C,D, E             | North Carolina | (H)          | 1,087             | 5,829                         | 215         | 1,095            | 6,036                         | 7,131  | 2,063                        | 1997    | 2005                 |               |
| Copperfield Medical Mall                    | North Carolina | (D)          | 1,380             | 4,047                         | 125         | 1,389            | 4,163                         | 5,552  | 2,118                        | 1989    | 2005                 |               |
| East Rocky Mount Kidney Center              | North Carolina | (H)          | 260               | 1,194                         | 28          | 261              | 1,221                         | 1,482  | 437                          | 2000    | 2005                 |               |
|   | North Carolina |              | 5,040             | 228                           | 4,990       | 56               | 228                           | 5,046  | 5,274                        | 2,379   | 2002                 | 2006          |

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|  |                |     |        |        |       |       |        |        |        |       |      |      |
|--|----------------|-----|--------|--------|-------|-------|--------|--------|--------|-------|------|------|
| English Road Medical Center (J)  |                |     |        |        |       |       |        |        |        |       |      |      |
| Gaston Professional Center, Gaston Ambulatory Surgery Center, Gaston Parking | North Carolina | (H) |        | 21,358 | 2,130 |       | 23,488 | 23,488 | 12,793 | 1997  | 2005 |      |
| Gateway Medical Office Building  | North Carolina | (H) |        | 9,281  | 1,563 |       | 10,844 | 10,844 | 3,585  | 2005  | 2005 |      |
| Harrisburg Family Physicians   | North Carolina |     | 270    | 509    | 443   | 271   | 951    | 1,222  | 295    | 1996  | 2005 |      |
| Harrisburg Medical Mall  | North Carolina | (D) | 441    | 1,722  | 18    | 443   | 1,738  | 2,181  | 681    | 1997  | 2005 |      |
| Lincoln/Lakemont Family Practice Center                                      | North Carolina | (I) | 270    | 1,025  | 300   | 271   | 1,324  | 1,595  | 620    | 1998  | 2005 |      |
| Mallard Crossing Medical Park  | North Carolina | (H) | 1,256  | 4,626  | 1,216 | 1,266 | 5,832  | 7,098  | 1,697  | 1997  | 2005 |      |
| Medical Arts Building  | North Carolina | (H) |        | 7,446  | 1,592 |       | 9,038  | 9,038  | 2,415  | 1997  | 2005 |      |
| Midland Medical Park   | North Carolina | (D) | 288    | 1,134  | 302   | 289   | 1,435  | 1,724  | 604    | 1998  | 2005 |      |
| Mulberry Medical Park  | North Carolina | (M) |        | 2,283  | 437   |       | 2,720  | 2,720  | 1,160  | 1982  | 2005 |      |
| Northcross Family Physicians   | North Carolina | (I) | 270    | 498    | 148   | 271   | 645    | 916    | 315    | 1993  | 2005 |      |
| Randolph Medical Park  | North Carolina | (I) | 1,621  | 5,366  | 3,705 | 1,631 | 9,061  | 10,692 | 3,107  | 1973  | 2005 |      |
| Rocky Mount Kidney Center  | North Carolina |     | 921    | 198    | 1,366 | 74    | 199    | 1,439  | 1,638  | 522   | 1990 | 2005 |
| Rocky Mount Medical Park   | North Carolina |     | 10,088 | 982    | 9,854 | 5,023 | 990    | 14,869 | 15,859 | 4,916 | 1991 | 2005 |
| Rowan Outpatient Surgery Center  | North Carolina |     | 3,052  | 399    | 4,666 | 39    | 401    | 4,703  | 5,104  | 1,411 | 2003 | 2005 |
| Weddington Internal & Pediatric Medicine                                     | North Carolina | (D) | 489    | 838    | 24    | 491   | 860    | 1,351  | 376    | 2000  | 2005 |      |
| Doylestown Health & Wellness Center  | Pennsylvania   |     | 4,418  | 15,379 | 67    | 4,418 | 15,446 | 19,864 | 337    | 2001  | 2011 |      |

**Table of Contents****COGDELL SPENCER INC.****SCHEDULE III****REAL ESTATE AND ACCUMULATED DEPRECIATION**

(in thousands)

| Property Name                                    | Location       | Encumbrances | Gross Amount at Which Carried<br>at<br>December 31, 2011 |  |       |                  | Accumulated<br>Depreciation | Date<br>Constructed<br>(C) | Date<br>Acquired |           |          |
|--|----------------|--------------|--|--|-------|------------------|-----------------------------|----------------------------|------------------|-----------|----------|
|  |                |              | Initial Costs (I)<br>Land                                | Cost<br>Capitalized<br>Building<br>and Subsequent to<br>Acquisition or<br>Development<br>(A) | Land  | Improvements (A) |                             |                            |                  | Total (B) |          |
| Lancaster ASC<br>MOB (J)                         | Pennsylvania   | 9,976        |  | 12,859   | 1,702 |                  | 14,561                      | 14,561                     | 3,771            | 2007 (K)  | 2006 (K) |
| Lancaster<br>Rehabilitation<br>Hospital          | Pennsylvania   | 11,344       |  | 11,748   | 2,031 |                  | 13,779                      | 13,779                     | 1,850            | 2007(K)   | 2006(K)  |
| 200 Andrews<br>Beaufort                          | South Carolina | (H)          |  | 2,663  | 1,317 |                  | 3,980                       | 3,980                      | 1,389            | 1994      | 2005     |
| Medical Plaza<br>Carolina Forest                 | South Carolina | (M)          |  | 7,399  | 174   |                  | 7,573                       | 7,573                      | 1,766            | 1999      | 2005     |
| Medical Plaza<br>Mary Black<br>Westside          | South Carolina | (H)          |  | 7,416  | 160   |                  | 7,576                       | 7,576                      | 1,829            | 2007(K)   | 2006(K)  |
| Medical Office<br>Bldg                           | South Carolina | (H)          |  | 3,922  | 1,063 |                  | 4,985                       | 4,985                      | 1,361            | 1991      | 2006     |
| Medical Arts<br>Center of<br>Orangeburg          | South Carolina | 2,147        | 605  | 4,172  | 479   | 608              | 4,648                       | 5,256                      | 1,518            | 1984      | 2005     |
| One Medical<br>Park                              | South Carolina | 4,594        |  | 8,767  | 2,526 |                  | 11,293                      | 11,293                     | 2,814            | 1984      | 2005     |
| Palmetto Health<br>Parkridge                     | South Carolina | 13,500       |  | 16,353   | 1,914 |                  | 18,267                      | 18,267                     | 3,279            | 2003      | 2006     |
| Providence<br>MOB I                              | South Carolina | (E)          |  | 5,152  | 340   | 1                | 5,491                       | 5,492                      | 1,449            | 1979      | 2005     |
| Providence<br>MOB II                             | South Carolina | (E)          |  | 2,441  | 623   |                  | 3,064                       | 3,064                      | 598              | 1985      | 2005     |
| Providence<br>MOB III                            | South Carolina | (E)          |  | 5,459  | 843   | 1                | 6,301                       | 6,302                      | 1,384            | 1990      | 2005     |
| River Hills<br>Medical Plaza                     | South Carolina | (M)          | 1,428  | 4,202  | 138   | 1,437            | 4,331                       | 5,768                      | 1,172            | 1999      | 2005     |
| Roper Medical<br>Office Building                 | South Carolina | 9,122        |  | 11,586   | 2,810 |                  | 14,396                      | 14,396                     | 4,465            | 1990      | 2005     |
| Mount Pleasant<br>Medical Office<br>(Long Point) | South Carolina | (H)          |  | 3,320  | 400   |                  | 3,720                       | 3,720                      | 1,429            | 2001      | 2005     |
| St Francis<br>Medical Plaza<br>(Charleston)      | South Carolina | (H)          |  | 3,792  | 2,464 |                  | 6,256                       | 6,256                      | 3,225            | 2003      | 2005     |
| St. Francis<br>CMOB                              | South Carolina | (F)          |  | 5,934  | 880   |                  | 6,814                       | 6,814                      | 2,532            | 2001      | 2005     |
| St. Francis<br>Medical Plaza<br>(Greenville)     | South Carolina | (G)          |  | 8,007  | 1,610 |                  | 9,617                       | 9,617                      | 2,024            | 1998      | 2005     |
|  | South Carolina | (M)          |  | 13,772   |       |                  | 13,772                      | 13,772                     | 739              | 2001      | 2010     |

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|   |                |     |            |           |            |           |           |            |            |            |         |         |
|---|----------------|-----|------------|-----------|------------|-----------|-----------|------------|------------|------------|---------|---------|
| St. Francis<br>Outpatient<br>Surgery Center   |                |     |            |           |            |           |           |            |            |            |         |         |
| St. Francis<br>Professional<br>Medical Center | South Carolina | (F) |            | 5,522     | 1,502      |           | 7,024     | 7,024      | 2,403      | 1984       | 2005    |         |
| St. Francis<br>Women s                        | South Carolina | (G) |            | 7,352     | 1,023      |           | 8,375     | 8,375      | 1,870      | 1991       | 2005    |         |
| Three Medical<br>Park                         | South Carolina |     | 7,224      | 10,405    | 2,088      |           | 12,493    | 12,493     | 3,163      | 1988       | 2005    |         |
| Health Park<br>Medical Office<br>Building     | Tennessee      |     | 6,794      | 1,862     | 13,223     | 214       | 1,862     | 13,437     | 15,299     | 1,751      | 2004    | 2007    |
| Medical Center<br>Physicians<br>Tower (J)     | Tennessee      |     | 14,450     |           | 21,078     | 4,658     |           | 25,736     | 25,736     | 1,583      | 2010(K) | 2009(K) |
| Peerless<br>Crossing<br>Medical Center        | Tennessee      |     | 7,145      | 645       | 8,722      | 502       | 645       | 9,224      | 9,869      | 1,026      | 2006    | 2007    |
| MRMC MOB I                                    | Virginia       |     | 5,811      | 970       | 9,890      | 2,263     | 976       | 12,147     | 13,123     | 2,364      | 1993    | 2006    |
| St. Mary's MOB<br>North 6th & 7th<br>floor    | Virginia       |     |            | 3,880     | 355        |           |           | 4,235      | 4,235      | 1,005      | 1968    | 2008    |
| Bonney Lake<br>Medical Office<br>Building (J) | Washington     |     | 10,565     | 3,146     | 18,940     |           | 3,146     | 18,940     | 22,086     | 268        | 2011(K) | 2010    |
| Good Sam<br>Medical Office<br>Building (J)    | Washington     |     | 12,281     |           | 27,916     |           |           | 27,916     | 27,916     | 89         | 2011(K) | 2010    |
| Total   |                |     | \$ 237,818 | \$ 44,699 | \$ 625,702 | \$ 70,426 | \$ 44,833 | \$ 695,994 | \$ 740,827 | \$ 146,523 |         |         |

(L)

(A) - Includes building and improvements, site improvements, furniture, fixtures, and equipment and construction in progress.

(B) - The aggregate cost for federal income tax purposes was \$762.6 million as of December 31, 2011. Depreciable lives range from 3-50 years.

(C) - Represents the year in which the property was placed in service.

(D) - Collateral for variable rate mortgage which had a balance of \$7.8 million at December 31, 2011.

(E) - Collateral for fixed rate mortgage which had a balance of \$7.8 million at December 31, 2011.

(F) - Collateral for variable rate mortgage which had a balance of \$9 million at December 31, 2011.

(G) - Collateral for variable rate mortgage which had a balance of \$8.2 million at December 31, 2011.

(H) - Collateral for the Credit Facility

(I) - Collateral for fixed rate mortgage which had a balance of \$7.1 million at December 31, 2011.

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(J) - A consolidated, less than 100% owned, real estate partnership.

(K) - Represents development property, thus Date Acquired reflects the initiation of the first phase of construction and Date Constructed reflects when property began operations.

(L) - Total mortgage notes payable on operational properties as of December 31, 2011 was \$278 million and the Company had construction financing with a balance of \$153 thousand for Duluth Medical Office Building (M) Collateral for the Term Loan

**Table of Contents****COGDELL SPENCER INC.****SCHEDULE III****REAL ESTATE AND ACCUMULATED DEPRECIATION**

(in thousands)

A summary of activity for real estate properties and accumulated depreciation is as follows:

|  | September 30,<br>Year ended<br>December 31, 2011 | September 30,<br>Year ended<br>December 31, 2010 | September 30,<br>Year ended<br>December 31, 2009 |
|--|--|--|--|
| <b>Real estate properties:</b>                           |  |  |  |
| Balance, beginning of period                             | \$ 634,291                                       | \$ 561,124                                       | \$ 531,932                                       |
| Property acquisitions                                    | 36,518   | 13,772   |  |
| Development projects                                     | 50,002   | 49,516   | 22,469   |
| Purchases of minority interests in Operating Partnership |  |  |  |
| Improvements   | 20,016   | 9,879  | 10,946   |
| Discontinued Operations                                  |  |  | (4,223)  |
| Balance, end of period                                   | \$ 740,827                                       | \$ 634,291                                       | \$ 561,124                                       |
| <b>Accumulated depreciation:</b>                         |  |  |  |
| Balance, beginning of period                             | \$ 119,141                                       | \$ 93,247  | \$ 69,285  |
| Depreciation   | 27,382   | 25,894   | 24,483   |
| Discontinued Operations                                  |  |  | (521)  |
| Balance, end of period                                   | \$ 146,523                                       | \$ 119,141                                       | \$ 93,247  |



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**Item 9. Changes in and Disagreements with Accountants on Accounting and Financial Disclosure**

None.

**Item 9A. Controls and Procedures**

**Evaluation of Disclosure Controls and Procedures**

We maintain disclosure controls and procedures that are designed to ensure that information required to be disclosed in our reports that we file under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms, and that such information is accumulated and communicated to our management, including our Chief Executive Officer and Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosure based closely on the definition of disclosure controls and procedures in Rule 13a-15(e). In designing and evaluating the disclosure controls and procedures, management recognized that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving the desired control objectives, and management necessarily was required to apply its judgment in evaluating the cost-benefit relationship of possible controls and procedures. Also, we have investments in certain unconsolidated entities. As we do not control these entities, the disclosure controls and procedures with respect to such entities are necessarily substantially more limited than those we maintain with respect to our consolidated subsidiaries.

As of the end of the period covered by this report, we carried out an evaluation, under the supervision and with the participation of our management, including its Chief Executive Officer and its Chief Financial Officer, of the effectiveness of our disclosure controls and procedures. Based upon that evaluation, the Chief Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures were effective as of the end of the period covered by this report.

**Management's Report on Internal Control over Financial Reporting**

Management is responsible for establishing and maintaining adequate internal control over financial reporting, as such term is defined in Exchange Act Rules 13a-15(f) and 15d-15(f). Under the supervision and with the participation of our management, including the Chief Executive Officer and Chief Financial Officer, we conducted an evaluation of the effectiveness of our internal control over financial reporting based on the framework in Internal Control-Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission. Based on that evaluation, we concluded that our internal control over financial reporting was effective as of December 31, 2011.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

Our internal control over financial reporting as of December 31, 2011, has been audited by Deloitte & Touche LLP, an independent registered public accounting firm, as stated in its report which is included below.

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REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors and Stockholders of

Cogdell Spencer Inc.

Charlotte, North Carolina

We have audited the internal control over financial reporting of Cogdell Spencer Inc. and subsidiaries (the Company) as of December 31, 2011, based on criteria established in Internal Control – Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission. The Company's management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting, included in the accompanying Management's Report on Internal Control over Financial Reporting. Our responsibility is to

express an opinion on the Company's internal control over financial reporting based on our audit.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, testing and evaluating the design and operating effectiveness of internal control based on the assessed risk, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

A company's internal control over financial reporting is a process designed by, or under the supervision of, the company's principal executive and principal financial officers, or persons performing similar functions, and effected by the company's board of directors, management, and other personnel to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of the inherent limitations of internal control over financial reporting, including the possibility of collusion or improper management override of controls, material misstatements due to error or fraud may not be prevented or detected on a timely basis. Also, projections of any evaluation of the effectiveness of the internal control over financial reporting to future periods are subject to the risk that the controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

In our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of December 31, 2011, based on the criteria established in Internal Control – Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the consolidated financial statements and financial statement schedule as of and for the year ended December 31, 2011 of the Company and our report dated March 30, 2012 expressed an unqualified opinion on those consolidated financial statements and financial statement schedule, and included explanatory paragraphs relating to substantial doubt about the Company's ability to continue as a going concern, and relating to the proposed sale of the Company and the proposed sale of the design-build business.

*/s/ DELOITTE & TOUCHE LLP*

McLean, Virginia

March 30, 2012



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**Changes in Internal Control over Financial Reporting**

There was no change in our internal control over financial reporting (as such term is defined in Exchange Act Rule 13a-15(f)) that occurred during our most recent quarter that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

**Item 9B. Other Information**

As discussed in Note 2 to our consolidated financial statements, in the event that the Company Merger is not completed, we may not remain in compliance with the minimum fixed charge coverage ratio and then we would be in default under the agreements for the Credit Facility and the Term Loan Facility and may be required to repay the outstanding balances. This condition raises substantial doubt about our ability to continue as a going concern, and our independent registered public accounting firm has included an explanatory paragraph in its audit report about our ability to continue as a going concern. As of March 27, 2012, we entered into Amendment and Waiver Agreements with respect to both the Credit Facility and the Term Loan Facility to, among other things, extend the time for delivery to our lenders of our audited financial statements with an unqualified opinion until April 20, 2012. If we do not close the Company Merger and the Loans are not repaid and we are not able to deliver audited financial statements with an unqualified opinion by April 20, 2012, we will be in default under both our Credit Facility and our Term Loan Facility.

**PART III**

**Table of Contents****Item 10 Directors, Executive Officers, and Corporate Governance**  
**Directors and Executive Officers**

In accordance with the provisions of our Charter and Bylaws, each member of the Board is elected at an annual meeting of stockholders and serves for a term expiring at the next annual meeting of stockholders and until his successor has been elected and qualifies, or until his earlier resignation or removal. The following table sets forth the name, age and the position(s) with us, if any, currently held by each director and executive officer:

| <b>Name</b>                                   | <b>Age</b> | <b>Title</b>                                    |
|---|------------|---|
| Raymond W. Braun                              | 54         | President, Chief Executive Officer and Director |
| John R. Georgius <sup>(1)(2)</sup>            | 67         | Director  |
| Richard B. Jennings <sup>(1)(2)</sup>         | 68         | Director  |
| Christopher E. Lee <sup>(2)(3)</sup>          | 63         | Director  |
| Richard C. Neugent <sup>(1)(3)</sup>          | 68         | Director, Chairman of the Board                 |
| Randolph D. Smoak, Jr. M.D. <sup>(2)(3)</sup> | 78         | Director  |
| Charles M. Handy                              | 50         | Executive Vice President, CFO and Secretary     |

<sup>(1)</sup> Member of Audit Committee

<sup>(2)</sup> Member of Compensation Committee

<sup>(3)</sup> Member of Nominating and Corporate Governance Committee

The Board believes that each of the directors has the key qualifications, skills and characteristics required of Board members and will contribute to an effective Board. Set forth below are descriptions of the backgrounds and principal occupations of each director and executive officer and the period during which each director has served on the Board. In addition to the above, the Board also considered the specific experience described in the biographical details that follow in determining to that such individuals qualified to serve as members of the Board.

*Raymond W. Braun, President and Chief Executive Officer.* Mr. Braun joined us as a member of the Board and as our Chief Executive Officer and President in September 2010. Mr. Braun attended Bowling Green State University. He graduated in 1980 with degrees in accounting and economics. After graduation, Mr. Braun attended the University of Pennsylvania Law School and graduated with his J.D. in 1983. After receiving his J.D., Mr. Braun practiced corporate and real estate law with a private law firm in Toledo, OH and Charlotte, NC. In 1993, Mr. Braun joined Health Care REIT, Inc., a publicly-traded health care real estate investment trust, and served as its Chief Financial Officer from July 2000 to March 2006, its President from May 2002 to January 2009, and as a member of its board of directors from May 2007 to January 2009. Prior to becoming Health Care REIT's Chief Financial Officer, Mr. Braun also served in various capacities, including as its Chief Operating Officer, Executive Vice President, Assistant Vice President and Assistant General Counsel. Mr. Braun has been an active industry leader. He was a member of the Board of Directors and Chairman of the National Investment Center. He has also served as Chairman of the Seniors Housing Political Action Committee.

*John R. Georgius, Director.* Mr. Georgius has served as a member of the Board since our initial public offering in 2005 and is also the Chairman of our Audit Committee. During his 37 year banking career, Mr. Georgius' executive positions included President and Chief Operating Officer at First Union Corporation, Vice Chairman and President of First Union National Bank and Senior Vice President and head of the trust division at First Union National Bank. Mr. Georgius was involved in over 140 acquisitions and brings first-hand knowledge of the banking industry to our Board. Mr. Georgius previously served as a director of First Union Corporation, First Union National Bank, VISA USA, and VISA International, and is an audit committee financial expert, as defined by the Securities and Exchange Commission (the "SEC"). Prior to his career in banking, Mr. Georgius received a B.B.A from Georgia State University and graduated from the American Bankers Association National Graduate Trust School at Northwestern University. Mr. Georgius currently sits on the Board and Audit Committee of a private company based in Hickory, North Carolina.

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*Richard B. Jennings, Director.* Mr. Jennings has served as a member of the Board since 2005. Mr. Jennings' experience in real estate, investment banking and business transitions led to a consulting arrangement during which he advised the Company throughout our initial public offering on the structure and terms of our formation transactions. Since 1993, Mr. Jennings has advised 19 management teams on their REIT IPOs. He is currently the President of Realty Capital International LLC, a position he has held since 1991. He is the former President of Jennings Securities LLC, a position he held from 1995-2006. Prior to serving these roles, Mr. Jennings served as Managing Director of Real Estate Finance at Drexel Burnham Lambert Incorporated, he oversaw the REIT investment banking business at Goldman, Sachs & Co. and during his tenure at Goldman, Sachs & Co., Mr. Jennings founded and managed the Mortgage Finance Group. Mr. Jennings currently serves on the board of directors of two additional public companies, Alexandria Real Estate Equities Inc. and National Retail Properties, Inc. At Alexandria Real Estate Equities Inc., he serves as Lead Director, Chairman of the Compensation Committee and as a member of the Nominating and Corporate Governance Committee and the Audit Committee. At National Retail Properties, Inc. Mr. Jennings is a Director, Chairman of the Audit Committee and a member of their Nominating and Corporate Governance Committee. Mr. Jennings graduated Magna Cum Laude with a B.A. in economics from Yale University and received his MBA from Harvard Business School.

*Christopher E. Lee, Director.* Mr. Lee has served as a member of the Board since our inception in 2005, and is also the Chairman of our Compensation Committee. Mr. Lee is President and Chief Executive Officer of CEL & Associates, Inc., one of the nation's leading real estate advisory firms, and has served in such capacities since 1994. For over 30 years he has provided a variety of strategic, compensation, organizational and performance improvement and benchmarking services to hundreds of real estate firms nationwide. Mr. Lee is also a frequent speaker at national real estate conferences, a regular contributor to various real estate publications and is the editor of the national real estate newsletter, *Strategic Advantage*. Prior to his consulting career, Mr. Lee worked for the Marriott and Boise Cascade corporations. Mr. Lee received a B.S. from San Diego State University, an M.S. degree from San Jose State University, and a Ph.D. in organizational development from Alliant International University.

*Richard C. Neugent, Director.* Mr. Neugent has served as a member of the Board since 2005 and is the Chairman of the Board and Chairman of our Nominating and Corporate Governance Committee. He is also the President of RCN Healthcare Consulting, a firm he formed in 2003 that specializes in strategic and operational improvements for hospitals, health systems and academic medical centers. Mr. Neugent has over 40 years of experience in the healthcare industry, substantially as President and Chief Executive Officer of Bon Secours-St. Francis Health System. Mr. Neugent's career also includes serving as Chief Operating Officer of Rapides Regional Medical Center and as Captain in the Medical Service Corps of the U.S. Air Force where he oversaw the construction of hospitals and dispensaries. Mr. Neugent has served on the advisory boards of Clemson University, The University Center in Greenville and First Union National Bank. In addition, he has served on the board of directors of the United Way and the Greenville Chamber of Commerce. Through the course of his career Mr. Neugent earned numerous distinctions including *Greenville Magazine's Nelson Mullins Business Person of the Year* and the *Order of the Palmetto*, the state of South Carolina's highest civilian award. Mr. Neugent received a B.S. from Alabama College and received an M.S. from The University of Alabama in hospital administration.

*Randolph D. Smoak, Jr. M.D., Director.* Dr. Smoak has been a member of our Board since 2005; however he has been part of our Company since 1982 as one of our physician limited partners. Since that time, Dr. Smoak's career has involved a variety of different roles, from medical office building physician owner, to a clinical professor of surgery, and to his most recent role as Consultant to the Quality Department at Regional Medical Center of Orangeburg and Calhoun Counties beginning in 2010. Dr. Smoak is a former President of the American Medical Association, has chaired the Compensation and Finance Committees of the American Medical Association, chaired the World Medical Association's Board of Trustees, served as President and Chairman of South Carolina Medical Association as well as president of the South Carolina Division of the American Cancer Society, is a founding member of the South Carolina Oncology Society and completed two terms as Governor from South Carolina to the American College of Surgeons. Dr. Smoak has also served on various community nonprofit boards including the Hollings Cancer Center Advisory Board, the Tobacco Free Kids Board, the Orangeburg Calhoun Technical College Foundation Board, the MUSC Foundation Board and the Greenville Family Partnership Board. Dr. Smoak received a B.S. from the University of South Carolina, an M.D. from the Medical University of South Carolina, a Doctor of Science, with Honors, from the Medical University of South Carolina and a Doctor of Humane Letters, with Honors, from the University of South Carolina.

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*Charles M. Handy, Chief Financial Officer, Executive Vice President and Secretary.* Mr. Handy has served as our Chief Financial Officer, Executive Vice President and Secretary since our inception in 2005. Mr. Handy has more than 25 years experience in commercial real estate accounting, finance and operations. He is responsible for all facets of finance, accounting, management information systems and administration for the Company, including oversight of external and internal financial reporting, establishment and evaluation of financial policy, maintenance of corporate banking relationships and relationships with external accounting firms. Prior to our initial public offering, Mr. Handy served as Chief Financial Officer, Senior Vice President and Secretary of Cogdell Spencer Advisors, Inc. from 1997 to 2005. Prior to joining the Company, Mr. Handy was Corporate Controller for Faison & Associates, Inc., a commercial real estate management and development firm headquartered in Charlotte, North Carolina and began his career at Ernst & Young. Mr. Handy has a Masters Degree in Business Administration from Wake Forest University, as well as a B.S.B.A. in Accounting and Real Estate from Appalachian State University. He is a member of the American Institute of Certified Public Accountants and North Carolina Association of Certified Public Accountants. He is also a licensed real estate broker in the State of North Carolina.

### **Executive Sessions of Non-Management Directors**

It is the policy of the Board that non-management members meet separately without management (including management directors) at least twice per year during regularly scheduled Board meetings in order to discuss such matters as the non-management directors consider appropriate. The Chairman of the Board will assume the responsibility of chairing the meetings and shall bear such further responsibilities which the non-management directors as a whole or the Board might designate from time to time. Our Chairman of the Board is Richard C. Neugent. Our independent auditors, finance staff, legal counsel, other employees and other outside advisers may be invited to attend these meetings. The non-management members of the Board met seven times in 2011.

### **Board Committees**

The Board has three standing committees: an Audit Committee, a Compensation Committee and a Nominating and Corporate Governance Committee. Each of these committees has at least three directors and is composed exclusively of independent directors, by reference to the rules, regulations and listing standards of the New York Stock Exchange (the NYSE), the national exchange on which our Common Stock is traded, as well as applicable SEC rules.

### ***Committee Charters***

The Audit Committee, Compensation Committee and Nominating and Corporate Governance Committee Charters meet the standards established by the NYSE. Copies of these Charters are available on our website at [www.cogdell.com](http://www.cogdell.com) or will be provided to any stockholder upon request.

### ***Audit Committee***

The Audit Committee assists our Board in overseeing the integrity of our Company's financial statements, our compliance with legal and regulatory requirements including the Sarbanes-Oxley Act of 2002, the qualifications and independence of the independent auditor and the performance of the internal audit function and independent auditor. The Audit Committee prepares the report required by SEC rules to be included in the annual Proxy Statement and provides an open avenue of communication among the independent auditor, the internal auditor, our management and our Board. John R. Georgius chairs the Audit Committee and serves as our Audit Committee financial expert, as that term is defined by the SEC, and Richard B. Jennings and Richard C. Neugent serve as members of this committee.

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### ***Compensation Committee***

The Compensation Committee determines how the Chief Executive Officer should be compensated, sets policies and reviews management decisions regarding compensation of our senior executives, reviews and approves written employment agreements of our Company and our subsidiaries, administers and makes recommendations to our Board regarding stock incentive plans, reviews and discusses with our management the Compensation Discussion & Analysis to be included in our proxy statement and produces an annual report on executive compensation for inclusion in our proxy statement. The Compensation Committee exercises independent discretion in respect of executive compensation matters and administers our 2005 and 2010 long-term stock incentive plans (collectively, the LTIP Plans ). The Compensation Committee may delegate all or a portion of its duties and responsibilities to a subcommittee of the Compensation Committee, provided a Charter is adopted for such subcommittee. Prior to establishing our general compensation philosophy, the Compensation Committee consults with our Chief Executive Officer. Our Chief Executive Officer provides recommendations to the Compensation Committee with regard to the compensation of our executive officers and with regard to our other highly paid employees and the executive officers and employees of our subsidiaries. Christopher E. Lee chairs the Compensation Committee and John R. Georgius, Richard B. Jennings and Randolph D. Smoak, Jr. M.D. serve as members of this committee. The Compensation Committee met four times in 2011 and has periodic conference calls, as needed, to evaluate executive performance against the goals and objectives set at the beginning of the year, to monitor market conditions in light of these goals and objectives and to review the compensation practices. The Compensation Committee makes regular reports to the Board.

### ***Nominating and Corporate Governance Committee***

The Nominating and Corporate Governance Committee develops and recommends to our Board a set of corporate governance guidelines, identifies individuals qualified to fill vacancies or newly created positions on our Board, recommends to our Board the persons it should nominate for election as directors at the Annual Meeting and recommends directors to serve on all committees of our Board. Richard C. Neugent chairs the Nominating and Corporate Governance Committee and Christopher E. Lee and Randolph D. Smoak, Jr. M.D. serve as members of this committee. There have been no material changes to the procedures by which our stockholders may recommend nominees to our board of directors.

### ***Corporate Governance Guidelines***

Our Board, in its role of overseeing the conduct of our business, is guided by our Corporate Governance Guidelines. Our Corporate Governance Guidelines reflect the NYSE listing standards. Among other things, our Corporate Governance Guidelines contain categorical standards for determining director independence in accordance with the NYSE listing standards. A copy of our Corporate Governance Guidelines is available in print to any shareholder who requests it and also available on our website at [www.cogdell.com](http://www.cogdell.com).

### ***Whistleblowing and Whistleblower Protection Policy***

The Audit Committee has established procedures for: (1) the receipt, retention and treatment of complaints received by us regarding accounting, internal accounting controls or auditing matters, and (2) the confidential and anonymous submission by our employees of concerns regarding questionable accounting or auditing matters. If you wish to contact the Audit Committee to report complaints or concerns relating to our financial reporting, you may do so by calling the Compliance Hotline at 1-800-360-6029 or by filing a web submission at <https://cogdell.alertline.com>. A copy of the policy is available on our website at [www.cogdell.com](http://www.cogdell.com).

### ***Code of Business Conduct and Ethics***

Our Code of Business Conduct and Ethics (the Code of Ethics ) documents the principles of conduct and ethics to be followed by our employees, executive officers and directors, including our principal executive officer, principal financial officer and principal accounting officer. The purpose of the Code of Ethics is to promote honest and ethical conduct, including the ethical handling of actual or apparent conflicts of interest between personal and professional relationships; promote avoidance of conflicts of interest, including disclosure to an appropriate person or committee of any material transaction or relationship that reasonably could be expected to give rise to such a conflict; promote full, fair, accurate, timely and understandable disclosure in reports and documents that we file with, or submit to, the SEC and in other public communications we make; promote compliance with applicable governmental laws, rules and regulations; promote the prompt internal reporting to an appropriate person or committee of violations of the Code of Ethics; promote accountability for adherence to the Code of Ethics; provide guidance to employees, executive officers and directors to help them recognize and deal with ethical issues; provide mechanisms to report unethical conduct; and help foster our longstanding culture of honesty and accountability. A copy of the Code of Ethics has been provided to, and signed by, each of our directors, executive officers and employees. A copy of the Code of Ethics is available on our website at [www.cogdell.com](http://www.cogdell.com) and can be provided to any stockholder upon request.





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### **Communications with Stockholders**

We provide the opportunity for stockholders and interested parties to communicate with the members of the Board. They may communicate with the independent Board members, non-management directors or the Chairperson of any of the Board's committees by email or regular mail. All communications should be sent to: [stockholdercommunications@cogdell.com](mailto:stockholdercommunications@cogdell.com), or to the attention of the Independent Directors, the Audit Committee Chairman, the Compensation Committee Chairman or the Nominating and Corporate Governance Committee Chairman at 4401 Barclay Downs Drive, Suite 300, Charlotte, NC 28209-4670. The means of communication with members of the Board is available on our website under Communications Policy at [www.cogdell.com](http://www.cogdell.com).

### **Section 16(a) Beneficial Ownership Reporting Compliance**

Under federal securities laws, our directors, executive officers and holders of 10% or more of our Common Stock are required to report, within specified monthly and annual due dates, their initial ownership in our Common Stock and all subsequent acquisitions, dispositions or other transfers of beneficial interests therein, if and to the extent reportable events occur which require reporting by such due dates. Based solely upon a review of the copies of the forms furnished to us, we believe that there were no late filings for the 2011 fiscal year.

## **Item 11 Executive Compensation COMPENSATION DISCUSSION AND ANALYSIS**

### **Overview**

The Compensation Discussion and Analysis (CD&A) discusses the principles underlying our executive compensation policies and decisions and the most important factors relevant to an analysis of these policies and decisions. It provides both quantitative and qualitative information regarding the manner and context in which compensation is awarded to, and earned by, our named executive officers and places in perspective the data presented in the tables and narrative that follow. In 2011, our named executive officers were Raymond W. Braun, our President and Chief Executive Officer, Charles M. Handy, our Chief Financial Officer, Executive Vice President and Secretary, and James W. Cogdell, our Former Executive Chairman of the Board.

The CD&A focuses on compensation paid to our named executive officers for the year 2011. The impact that the Mergers will have on executive compensation is discussed under the sections Impact of the Mergers on Executive Compensation.

### **Compensation Philosophy and Objectives**

The Compensation Committee, in consultation with our Board and Chief Executive Officer, sets our compensation philosophy. The basic philosophy underlying our executive compensation policies, plans, and programs is that executive and stockholder financial interests should be closely aligned, and compensation should be based on delivering pay commensurate with performance. Accordingly, the executive compensation program has been structured to achieve the following objectives:

provide compensation that attracts, retains, and motivates executive officers to lead our company effectively and continue our short and long-term profitability and growth;

link executive compensation and financial and operating performance, by setting executive compensation based on the attainment of certain objective and subjective company and department performance goals; and

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align the interests of our executive officers and stockholders by implementing and maintaining compensation programs that provide for the acquisition and retention of significant equity interests in us by executive officers.

Based on these objectives, the executive compensation program has been designed to attract, motivate and retain executive officers to help achieve our performance goals. The program is structured to provide executive officers with a combination of base salaries, annual cash incentive awards, long-term incentive awards and stock ownership opportunities.

### **What the Executive Compensation Program is Designed to Reward**

The Compensation Committee has designed the executive compensation plan to achieve three primary objectives:

*Attracting, Motivating and Retaining Executives.* We have been successful in creating an experienced and highly effective team with long tenure and a deep commitment to the Company.

*Linking Compensation to Performance.* The Compensation Committee generally rewards the achievement of specific annual, long-term and strategic goals of both our Company and each individual executive officer. The Compensation Committee measures performance of each named executive officer, by considering (1) our performance, (2) the performance against financial measures established at the beginning of the year, and (3) a subjective evaluation of each named executive officer.

*Aligning the Interest of our Board and Executive Officers with our Stockholders.* Long-term incentive compensation is designed to provide incentives for each executive officer to successfully implement our long-term strategic goals and to retain such executive officer. We have designed our annual and long-term incentive programs to award performance-based equity to allow our executive officers to grow their ownership in our company and create further alignment with our stockholders.

### **Measuring 2011 Performance**

Together with our Board and Chief Executive Officer, the Compensation Committee reviews, on an annual basis, the performance of each executive officer, his department and our overall performance.

In addition, the Compensation Committee oversees and evaluates the performance and leadership skills of our executive officers in order to ensure the roles of such officer are continuing to align with the Company's business strategy and goals. In 2009, the Compensation Committee retained a professional services company to help prepare an evaluation method to provide feedback on the performance of executive officers from certain of such officers' supervisors, peers, co-workers, other staff employees and the officers themselves. This feedback process and other ongoing interaction with each key leader continued throughout 2011.

### **Elements of our Executive Compensation Program**

Our executive compensation plan is structured to provide short and long-term incentives that promote continuing improvements in our financial results and returns to our stockholders. The elements of our executive compensation are primarily comprised of three elements designed to complement each other: annual base salaries, annual incentive bonuses and long-term incentives. We review the various components of compensation as related but distinct. The Compensation Committee designs total compensation packages it believes will best create retention incentives, link compensation to performance and align the interests of our executive officers and stockholders.

*Annual Base Salaries.* Annual base salaries are paid for ongoing performance throughout the year. In the case of each of our named executive officers, annual base salaries are paid in accordance with the employment agreement between us and such named executive officer.

*Annual Incentive Bonus.* Cash incentive bonuses may be earned based on our performance in relation to both predetermined objectives and subjective individual executive performance. Our Compensation Committee determines the annual incentive bonus

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for our named executive officers based on certain predetermined performance targets. We provide this element of compensation because we believe it promotes loyalty, hard-work, focus, honesty and vision.

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*Long-Term Incentives.* Pursuant to our LTIP Plans, we have provided long-term incentives through grants of restricted stock, in the case of Mr. Braun, and LTIP units, in the case of Messrs. Handy and Cogdell.

In addition, in order to attract and retain highly qualified individuals for key positions, we occasionally provide our named executive officers with perquisites and other personal benefits consistent with our compensation philosophy. For more information regarding perquisites and other personal benefits provided in 2011, we refer you to the *All Other Compensation* table set forth under *Executive Compensation*.

### **Employment Agreements**

During 2011, we were party to an employment agreement with each of Messrs. Braun, Handy and Cogdell. Mr. Cogdell's employment agreement terminated on November 1, 2011. For a description of the material terms of the employment agreements, including the severance benefits available under such agreements and the severance paid to Mr. Cogdell in connection with his retirement, see *Potential Payments Upon Termination of Employment or Change in Control*.

### **2011 Compensation**

The Compensation Committee determines the total compensation and the allocation of such compensation among base salary, annual bonus amounts and other long-term incentive compensation for our named executive officers. With respect to the compensation of our other executive officers, the Compensation Committee solicits recommendations from our Chief Executive Officer regarding compensation and reviews his recommendations. We do not have a pre-established policy for the allocation between either cash and non-cash compensation or annual and long-term incentive compensation. The ultimate determination on total compensation and the elements that comprise total compensation are made solely by the Compensation Committee.

In making compensation decisions for 2011, the Compensation Committee considered various measures of company and industry performance, including a combination of funds from operations modified, or FFOM, and gross revenue and earnings before interest, taxes, depreciation and amortization ( EBITDA ). Through the elements of our compensation program, the Compensation Committee seeks to maintain a competitive total compensation package for each executive officer, while being sensitive to our fiscal year budget, annual accounting costs and the impact of dilution in making such compensation payments.

The Compensation Committee also considered the results of the advisory vote by shareholders on executive compensation, or the *say-on-pay* proposal, presented to shareholders at our May 4, 2011 Annual Meeting. As reported in our Form 8-K, filed with the SEC on May 10, 2011, an overwhelming majority of the shares that voted on the *say-on-pay* proposal approved our 2010 executive compensation. Accordingly, the Compensation Committee made no direct changes to the Company's executive compensation program as a result of the *say-on-pay* vote.

Annual Base Salaries. Annual base salaries provide the named executive officers with a minimum compensation level that is intended to reflect such his value and historical contributions to our success in light of salary norms of our competitors. Increases to the annual salary are based on recommendations of the Chief Executive Officer and are subject to approval by the Compensation Committee based on the Chief Executive Officer's review of salaries of comparable executive officers in comparable companies. Messrs. Braun and Handy's initial base salaries were negotiated in connection with their commencement of employment with the Company. Pursuant to the employment agreements, their annual salaries cannot be decreased beyond the amount set forth in the employment agreement. None of our named executive officers received a base salary increase in 2011.

Annual Incentives. The Compensation Committee may elect to pay our executive officers annual incentives to reward our executive officers for achievement of financial and other performance of our Company and of such executive officer's department, with a component of performance based on a subjective evaluation. The Compensation Committee did not award any annual incentive awards to our named executive officers in 2011.

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**Long-Term Incentives.** The Compensation Committee may elect to pay our executive officers long-term incentives to act as a retention tool and to provide continued and additional incentives to maximize our long-term stock price and thereby more closely align the economic interests of our executive officers with those of our stockholders. In 2011, the Compensation Committee granted Mr. Handy LTIP Units in connection with the completion of two projects. For information regarding these equity grants, see the Grants of Plan-Based Awards for 2011 below. Neither Mr. Braun nor Mr. Cogdell received any equity grants in 2011.

**Executive Stock Ownership Policy**

As noted above, one of the primary objectives of our compensation philosophy is to align the interests of executive officers with those of our stockholders by providing appropriate long-term incentives. To further this goal, the Compensation Committee adopted an Executive Stock Ownership Policy, effective February 24, 2011, regarding minimum ownership of shares of our common stock (including common stock issuable upon conversion of OP units or LTIP Units) by our executive officers. This policy requires our Chief Executive Officer to own shares of common stock (including common stock issuable upon conversion of OP units or LTIP Units) having a fair market value equal to at least five times his annual base salary and for certain other executive officers to own shares of common stock (including common stock issuable upon conversion of OP Units or LTIP Units) having a fair market value equal to at least three times the executive officer's annual base salary. Our Chief Executive Officer, our other named executive officer and certain other members of our senior management team have five years from the date of hire or the adoption of the policy (February 24, 2011) to satisfy these requirements.

**Impact of the Mergers on Executive Compensation**

Immediately before the effective time of the Partnership Merger, each unvested LTIP Unit granted under the Operating Partnership's long-term incentive plans or otherwise that is outstanding at such time will become fully vested and each vested LTIP Unit will automatically convert into an OP Unit, or fraction thereof, based on the adjusted capital account balance allocable to such LTIP Unit immediately prior to the Partnership Merger. Accordingly, holders of LTIP Units that are so converted generally will receive the per share merger consideration, without interest, less any applicable withholding taxes.

Effective immediately before the effective time of the Company Merger, each outstanding share of restricted stock granted under the Company's equity plans will become fully vested and will convert into the right to receive the per share merger consideration, in each case without interest and less any applicable withholding taxes.

The following table sets forth for each of our named executive officers (i) the number and value of outstanding vested LTIP Units that are expected to convert in connection with the Partnership Merger into an OP Unit, which generally will entitle the holder to receive the per share merger consideration, (ii) the number and value of outstanding unvested LTIP Units which will become fully vested and are expected to convert in connection with the Partnership Merger into an OP Unit, which generally will entitle the holder to receive the per share merger consideration, (iii) the number and value of shares of restricted stock which will become fully vested and entitle the holder to receive the per share merger consideration, and (iv) the value and number of OP Units which will convert into the right to receive the per share merger consideration, in each case held by each such person as of February 3, 2012:

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| XXXX                    | XXXX    | XXXX     | XXXX     | XXXX       | XXXX       | XXXX    | XXXX      | XXXX      | XXXX      | XXXX      | XXXX      |
|-------------------------|---------|----------|----------|------------|------------|---------|-----------|-----------|-----------|-----------|-----------|
| Number                  | Value   | Number   | Value of | Number of  | Value of   | Number  | Value of  | Number of | Value of  | Number of | Value of  |
| of                      | of      | of       | Unvested | Shares     | Shares of  | of      | OP        | Shares of | Common    | Shares of | Total     |
| Vested                  | Vested  | Unvested | LTIP     | Restricted | Restricted | OP      | OP        | Common    | Common    | Common    | Total     |
| LTIP                    | LTIP    | LTIP     | LTIP     | Stock      | Stock      | Units   | Units     | Stock     | Stock     | Stock     | Holdings  |
| Units                   | Units   | Units    | Units    | (#)        | (\$)(2)    | (#)     | (\$)(3)   | (\$)      | (\$)      | (\$)      | (\$)      |
| (#)                     | (\$)(1) | (#)      | (\$)(1)  |            |            |         |           |           |           |           |           |
| <i>Raymond W. Braun</i> |         |          |          | 521,610    | 2,216,843  |         |           | 74,516    | 316,693   | 596,126   | 2,533,536 |
| <i>Charles M. Handy</i> | 21,281  | 90,444   | 30,461   | 129,459    |            | 111,320 | 473,110   | 2,000     | 8,500     | 165,062   | 701,513   |
| <i>James W. Cogdell</i> |         |          |          |            |            | 943,388 | 4,009,399 | 1,348,203 | 5,729,863 | 2,291,591 | 9,739,262 |

- (1) Calculated by assuming such LTIP Units convert into OP units on a 1-for-1 basis, and multiplying the resulting number of OP Units by the per share merger consideration of \$4.25. The actual amount paid in respect of the LTIP Units generally will be based on the actual number of OP Units into which the outstanding LTIP Units are converted in connection with the Partnership Merger.
- (2) Calculated by multiplying the number of shares of restricted stock by the per share merger consideration of \$4.25.
- (3) Calculated by multiplying the number of OP Units by the per share merger consideration of \$4.25. Pursuant to the Merger Agreement and effective as of the closing date of the Merger, all equity plans of the Company will be terminated.

**COMPENSATION COMMITTEE REPORT**

The executive compensation philosophy, policies, plans, and programs of the Company are under the supervision of the Compensation Committee of the Board, which is composed of the non-management directors named below, each of whom has been determined by the Board to be independent under the applicable rules of the SEC and the NYSE listing standards.

The Compensation Committee reviewed and discussed the above Compensation Discussion and Analysis with management. Based on the review and discussions, the Compensation Committee recommended to the Board that the Compensation Discussion and Analysis be included in this Annual Report.

Respectfully submitted by the members of the Compensation Committee:

Christopher E. Lee, Chairman  
John R. Georgius

Richard B Jennings  
Randolph D. Smoak, Jr. M.D.

**COMPENSATION COMMITTEE INTERLOCKS AND INSIDER PARTICIPATION**

As of December 31, 2011, the Compensation Committee consisted of Messrs. Lee, Georgius, Jennings and Dr. Smoak. None of the members of our Compensation Committee was an officer or employee of the Company in 2011 or any time prior thereto or had any relationship with the Company requiring disclosure under Item 404 of Regulation S-K. None of our executive officers served as a member of the board or compensation committee of any other company whose executive officer(s) served as a member of our Board of Directors or our Compensation Committee.

**Table of Contents****EXECUTIVE COMPENSATION****Summary Compensation Table**

The following table sets forth the annual base salary and other compensation paid or earned in 2011, 2010 and 2009 to our named executive officers.

| Name and Principal Position  | September 30, Year | September 30, Salary (\$) | September 30, Bonus (\$) | September 30, Stock Awards(\$)(1) | September 30, All Other Compensation (\$)(2) | September 30, Total |
|--|--------------------|---------------------------|--------------------------|-----------------------------------|--|---------------------|
| Raymond W. Braun<br><i>President and Chief Executive Officer</i>                           | 2011               | 400,000                   |                          |                                   | 16,977                                       | 416,977             |
| Charles M. Handy<br><i>Chief Financial Officer, Executive Vice President and Secretary</i> | 2010               | 165,797                   | 100,000                  | 3,471,686(3)                      | 2,466  | 3,739,949           |
|  | 2011               | 285,312                   |                          | 60,899                            | 25,626                                       | 371,837             |
|  | 2010               | 285,312                   |                          | 82,846(4)                         | 24,812                                       | 392,970             |
|  | 2009               | 285,312                   |                          | 33,594(5)                         | 39,850                                       | 358,756             |
| James W. Cogdell<br><i>Former Chairman (6)</i>   | 2011               | 370,501                   |                          |                                   | 11,603                                       | 382,104             |
|  | 2010               | 442,559                   |                          |                                   | 1,772,737(7)                                 | 2,215,296           |
|  | 2009               | 442,559                   |                          |                                   | 34,163                                       | 476,722             |

- (1) This column reflects the grant date fair values of stock awards, including shares of restricted stock and LTIP units, granted in the fiscal year indicated which were computed in accordance with Accounting Standards Codification (ASC) Topic 718 (ASC Topic 718). Additional information regarding the calculation of these amounts are set forth in Footnote 15 to the Company's audited consolidated financial statements in this Annual Report.
- (2) All other compensation includes employer 401(k) match, health, life and dental insurance premiums, long term and short term disability insurance premiums, and personal use of company-owned vehicles, as applicable. For more information on these benefits provided in 2011, see All Other Compensation below.
- (3) Pursuant to the terms of Mr. Braun's employment agreement, on September 20, 2010, Mr. Braun purchased from the Company 74,516 restricted shares, or approximately \$500,000, of the Company's common stock, at a price per share equal to \$6.71, which was the average closing price of the Company's common stock on the NYSE for the five trading days immediately preceding (but excluding) September 20, 2010. Pursuant to the terms of the agreement, and specifically in consideration for Mr. Braun purchasing the 74,516 restricted shares referred to above, we agreed to grant Mr. Braun an award of 74,516 restricted shares, or approximately \$472,000 based on the grant date closing price of our common stock of \$6.33, of common stock (the Award) under the Company's 2010 long-term stock incentive plan, which shares shall be forfeited if during the period from September 20, 2010 through December 31, 2013 (the Restriction Period) (1) there is a termination of Mr. Braun's employment for cause or by Mr. Braun for any reason or (2) if Mr. Braun sells or disposes any of the shares purchased by him as described above without the permission of the Board. In addition, under the Agreement the Company agreed to grant Mr. Braun an award of 447,094 restricted shares, or approximately \$3,000,000, of common stock (the Performance Award) under the Company's 2010 long-term stock incentive plan, the vesting of which will be subject to the satisfaction of pre-established performance measures that must be satisfied or exceeded by Mr. Braun by December 31, 2013. Such performance measures were established by the mutual agreement of the Compensation Committee and Mr. Braun and approved by the Board on June 30, 2011.
- (4) Mr. Handy was awarded LTIP units in connection with the completion of the Medical Center Physicians Tower in Jackson, TN. The award was based on the project's asset value and was calculated using \$6.23 per LTIP unit, the Company's common stock price on February 1, 2010, the date the certificate of completion was received for the project. Mr. Handy was awarded LTIP units in connection with the completion of the University Physicians-Grant's Ferry project in Brandon, MS. The award was based on the project's asset value and was calculated using \$7.05 per LTIP unit, the Company's common stock price on May 17, 2010, the



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date the certificate of completion was received for the project. Mr. Handy was awarded LTIP units in connection with the completion of the Lancaster Rehabilitation Hospital expansion in Lancaster, PA. The award was based on the project's asset value and was calculated using \$6.55 per LTIP unit, the Company's common stock price on May 21, 2010, the date the certificate of completion was received for the project. Mr. Handy was awarded LTIP units in connection with the completion of the HealthPartners Medical Office Building in St. Cloud, MN. The award was based on the project's asset value and was calculated using \$6.63 per LTIP unit, the Company's common stock price on June 1, 2010, the date the certificate of completion was received for the project.

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- (5) Mr. Handy was awarded LTIP units in connection with the completion of The Woodlands Center for Specialized Medicine in Pensacola, Florida. The award was based on the project's asset value and was calculated using \$4.93 per LTIP unit, the Company's common stock price on November 17, 2009, the date the certificate of completion was received for the project.
- (6) As of May 4, 2011, Mr. Cogdell resigned from his position and was a non-executive at-will employee from May 4, 2011, through November 1, 2011. His employment with the Company terminated on November 1, 2011.
- (7) In connection with his retirement, Mr. Cogdell received (i) severance equal to \$1,364,720, which was payable in three installments, as follows: \$957,364 on November 2, 2011; \$37,032 on December 2, 2011; and \$370,324 on January 2, 2012; (ii) a lump sum payment of \$300,000 in satisfaction of five years of secretarial support; and (iii) accelerated vesting of 18,277 outstanding LTIP Units, with a value of \$108,017, based on a per share value of \$5.91.

The following table sets forth the components of the "All Other Compensation" column for 2011 in the Summary Compensation table above.

|             | September 30,<br>Health, Life<br>and Dental<br>Insurance<br>Premiums | September 30,<br>Long-Term<br>Disability<br>Insurance<br>Premiums | September 30,<br>Short-Term<br>Disability<br>Insurance<br>Premiums | September 30,<br>Personal Use<br>of Company<br>Vehicle | September 30,<br>Total |
|-------------|--|---|--|--|------------------------|
| Mr. Braun   | 16,147   | 800   | 30   |  | 16,977                 |
| Mr. Handy   | 16,147   | 571   | 30   | 8,878  | 25,626                 |
| Mr. Cogdell | 8,712  | 741   | 25   | 2,125  | 11,603                 |

**Grants of Plan-Based Awards for 2011**

|             | September 30,<br>Grant Date | September 30,<br>All Other Stock<br>Awards:<br>Number of<br>Shares of<br>Stock Or Units<br>(#) | September 30,<br>Grant Date Fair Value<br>of<br>Stock and Option<br>Awards (\$) |
|-------------|-----------------------------|--|---|
| Mr. Braun   |                             |  |   |
| Mr. Handy   | 8/18/2011(1)                | 6,352  | 26,550  |
|             | 9/23/11(2)                  | 2,540  | 15,824  |
|             | 12/5/2011(3)                | 4,848  | 18,525  |
| Mr. Cogdell |                             |  |   |

- (1) Mr. Handy was awarded LTIP units in connection with the completion of the Bonney Lake Medical Office Building in Bonney Lake, WA. The award was based on the project's asset value and was calculated using \$4.18 per LTIP unit, the Company's closing common stock price on August 18, 2011, the date the certificate of completion was received for the project.
- (2) Mr. Handy was awarded 2,540 LTIP units in connection with the completion of the Jackson Clinic in Jackson, TN. The award was based on the project's asset value and was calculated using \$6.23 per LTIP unit, the Company's common stock price on September 23, 2011, the date the certificate of completion was received for the project.
- (3)

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Mr. Handy was awarded LTIP units in connection with the completion of the Good Sam Medical Office Building in Puyallup, WA. The award was based on the project's asset value and was calculated using \$3.82 per LTIP unit, the Company's closing common stock price on December 5, 2011, the date the certificate of completion was received for the project.

**Table of Contents****Outstanding Equity Awards at 2011 Fiscal-Year End (1)**

|             | September 30,<br>Number of Shares<br>or Units of Stock<br>That Have Not<br>Vested (#) | September 30,<br>Market Value of<br>Shares<br>or Units of<br>Stock That<br>Have<br>Not Vested (\$) | September 30,<br>Equity Incentive<br>Plan Awards:<br>Number of<br>Unearned Shares,<br>Units or Other<br>Rights That<br>Have<br>Not Vested (#) | September 30,<br>Equity Incentive<br>Plan Awards:<br>Market or Payout<br>Value of Unearned<br>Shares, Units or<br>Other rights<br>That<br>Have Not Vested<br>(\$) |
|-------------|---|--|---|---|
| Mr. Braun   | 74,516(2)   | 316,693  | 447,094(3)  | 1,900,150   |
| Mr. Handy   | 30,461(4)   | 129,459  |   |   |
| Mr. Cogdell |   |  |   |   |

- (1) Immediately before the effective time of the Partnership Merger, each unvested LTIP Unit that is outstanding at such time will become fully vested and each vested LTIP Unit will automatically convert into an OP Unit, or fraction thereof, based on the adjusted capital account balance allocable to such LTIP Unit immediately prior to the Partnership Merger. Accordingly, holders of LTIP Units that are so converted generally will receive the per share merger consideration, without interest, less any applicable withholding taxes. Effective immediately before the effective time of the Company Merger, each outstanding share of restricted stock will become fully vested and will convert into the right to receive the per share merger consideration, in each case without interest and less any applicable withholding taxes.
- (2) 74,516 restricted shares will vest on December 31, 2013, unless: (1) Mr. Braun's employment is terminated by the Company for cause or by Mr. Braun for any reason, or (2) Mr. Braun sells or disposes any of the shares purchased by him as described above without the permission of the Board. Market value is calculated using a per unit value of \$4.25 which was the price per share of the Company's common stock on December 30, 2011, the last trading day of the 2011 fiscal year.
- (3) 447,094 restricted shares vest based on the satisfaction of pre-established performance measures that must be satisfied or exceeded by Mr. Braun by December 31, 2013. Market value is calculated using a per unit value of \$4.25 which was the price per share of the Company's common stock on December 30, 2011, the last trading day of the 2011 fiscal year.
- (4) The amounts shown represent unvested amounts related to LTIP Units granted in recognition of the role played in the acquisition of Erdman. The number of LTIP Units awarded was calculated using \$15.95 per LTIP unit, the price per share paid in connection with the Company's private offering in January 2008. Of the total number of LTIP Units granted, 20% vested on March 31, 2008 (the effective date of the issuance) and the remaining 80% will vest if and when the Company achieves certain performance standards as provided in the awards. The amounts shown represent unvested amounts remaining after the vesting of LTIP Units related to the achievement of 2008 performance standards. Market value is calculated using a per unit value of \$4.25 which was the price per share of the Company's common stock on December 30, 2011, the last trading day of the 2011 fiscal year.

**Potential Payments Upon Termination of Employment or Change in Control***Employment Agreements with Messrs. Braun and Handy*

Pursuant to employment agreements with Messrs. Braun and Handy, they have agreed to serve, respectively, as our Chief Executive Officer and President, and Chief Financial Officer, Executive Vice President and Secretary. The employment agreements require the executive officers to devote substantially all of their business time and effort to our affairs.



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The employment agreements with Messrs. Braun and Handy are each for a three-year term; provided, however, that (1) the terms of Mr. Braun's agreement will be automatically extended for an additional two-year period unless, not later than six months prior to the expiration of the initial term, either party provides written notice to the other party of its intent not to further extend the term, and (2) the terms of Mr. Handy's agreement will be automatically extended for successive one-year periods unless, not later than three months prior to the termination of the existing term, either party provides written notice to the other party of its intent not to further extend the term. Mr. Braun's employment agreement will renew for an additional two-year period on December 31, 2013, unless notice of non-renewal is provided on or before July 4, 2013, and Mr. Handy's employment agreement will renew for an additional one-year period on December 31, 2011, unless notice of non-renewal is provided on or before December 1<sup>st</sup> in any annual renewal term. The employment agreements provide for an annual base salary to each of Messrs. Braun and Handy, respectively, and for bonus and other incentive eligibility (as determined by the Compensation Committee of the Board) and participation in employee benefit plans and programs. We also make available to Mr. Handy use of a company car.

The employment agreements with each of Messrs. Braun and Handy provide for the payment of certain severance benefits if the executive is involuntarily terminated without cause or, in the case of Mr. Handy, if the executive terminates his employment with good reason (as such terms are defined below). In addition, if Mr. Handy terminates his employment with us within one year following a change in control for any reason, such termination shall be deemed a termination by him for good reason.

Upon a termination of Mr. Braun's employment by us without cause, Mr. Braun will be entitled to receive the following severance payments and benefits: (i) a lump-sum cash payment equal to his current annual base salary; (ii) a pro-rata (based on the number of days employed in the fiscal year of termination) maximum annual bonus for the fiscal year in which his termination occurs; and (iii) continuing coverage at active employee rates under our group health plans for one year after termination of employment. In addition, upon a change in control, Mr. Braun's outstanding restricted shares become fully-vested and non-forfeitable.

Upon a termination of Mr. Handy's employment either (i) by us without cause, (ii) by him for good reason, or (iii) by him for any reason within one year following a change in control, Mr. Handy will be entitled to receive the following severance payments and benefits: (i) a lump-sum cash payment equal to 1.99 multiplied by the sum of (1) his then-current annual base salary and (2) the greater of (A) the average bonus paid to him over the previous two years, and (B) the maximum bonus payable to him for the fiscal year in which the termination occurs (such sum, the Base Severance Amount); and (ii) continuing coverage at active employee rates under our group health plans for three years after termination of employment. In addition, upon a change in control, Mr. Handy's outstanding unvested LTIP Units become fully vested.

In the event we give Mr. Handy notice of non-renewal of his employment agreement, Mr. Handy will be entitled to the same payments and benefits as if terminated by us without cause, except that his lump-sum cash payment will equal the Base Severance Amount. In addition, if we elect to subject Mr. Handy to the non-competition and non-solicitation provisions described below, he will be entitled to a cash payment equal to the Base Severance Amount.

In the event that any amount payable to Mr. Handy is determined to be an excess parachute payment under Section 280G of the Internal Revenue Code of 1986, as amended, which we refer to as the Code, he will be entitled to a gross-up payment equal to the excise tax imposed under Section 4999 of the Code. The amount of gross-up payment (which is also treated as an excess parachute payment) will be equal to the sum of the excise taxes payable by Mr. Handy by reason of receiving the parachute payments plus the amount necessary to put Mr. Handy in the same after-tax position as if no excise taxes had been imposed on Mr. Handy (taking into account any and all applicable federal, state and local excise, income or other taxes at the highest applicable rates).

Upon the termination of Mr. Handy's employment due to the death or disability, Mr. Handy (or his estate) will be entitled under his employment agreement to receive his annual base salary, bonus and other benefits accrued through the date of termination and full vesting of all outstanding equity-based awards held by him. With respect to Mr. Braun, upon a termination of employment due to death or disability, Mr. Braun will be entitled under his employment agreement to receive his annual base salary earned and accrued through the date of termination and 100% of his bonus potential for the year of termination, paid at the time such bonus would otherwise have been payable, but Mr. Braun will also forfeit his outstanding restricted stock.

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For purposes of the employment agreements with Messrs. Braun and Handy, **cause** generally means: (i) conviction of, or formal admission to, a felony, including, for Mr. Handy, conviction of, or formal admission to, a misdemeanor the circumstances of which are to the material detriment to the Company's reputation whether or not in the performance of duties thereunder; (ii) engagement in the performance of his duties, or otherwise to our material and demonstrable detriment, in willful misconduct, willful or gross neglect, fraud, misappropriation or embezzlement; (iii) repeated failure to adhere to the directions of our Board, or to adhere to our policies and practices; (iv) willful and continued failure to substantially perform the executive's duties properly assigned to him (other than any such failure resulting from his disability) after demand for substantial performance is delivered by us specifically identifying the manner in which we believe he has not substantially performed such duties; (v) breach of any of the provisions of the covenants of his employment agreement; or (vi) breach in any material respect of the terms and provisions of his employment agreement and failure to cure such breach within 30 days following written notice from us specifying such breach.

For purposes of the employment agreement with Mr. Handy, **good reason** generally means: (i) the material reduction of his authority, duties and responsibilities, the failure to continue Mr. Handy's appointment in his given position, or the assignment to him of duties materially inconsistent with his position or positions with us; (ii) a reduction in Mr. Handy's annual salary; (iii) the relocation of Mr. Handy's office to more than 50 miles from Charlotte, North Carolina; or (iv) our material and willful breach of Mr. Handy's employment agreement.

The term **change of control** as used in the employment agreements with Messrs. Braun and Handy is generally defined to mean: (i) any transaction by which any person or group becomes the beneficial owner, either directly or indirectly, of our securities representing 50% or more of either (1) the combined voting power of our then outstanding securities or (2) the then outstanding shares of our Common Stock; or (ii) any consolidation or merger where our stockholders, immediately prior to the consolidation or merger, would not, immediately after the consolidation or merger, beneficially own, directly or indirectly, shares representing in the aggregate 50% or more of the combined voting power of the securities of the corporation issuing cash or securities in the consolidation or merger (or of its ultimate parent corporation, if any); or (iii) there shall occur (1) any sale, lease, exchange or other transfer of all or substantially all of our assets, or (2) the approval by our stockholders of any plan or proposal for our liquidation or dissolution; or (iv) the members of our Board, at the beginning of any consecutive 24-calendar-month period cease for any reason other than due to death to constitute at least a majority of the members of the Board.

Pursuant to the terms of the non-competition provisions in Messrs. Braun and Handy's employment agreements, the executive officer is generally prohibited for a one-year period, in the case of Mr. Braun, and for a two-year period, in the case of Mr. Handy, following termination from, directly or indirectly, whether as an owner, partner, stockholder, principal, agent, employee, consultant or in any other relationship or capacity, engaging in any element of our business or otherwise competing with us or our affiliates, rendering any services to any person, corporation, partnership or other entity engaged in competition with us or our affiliates, or providing financial assistance to or otherwise obtaining an ownership interest in a competitor of ours or of our affiliates within a restricted territory encompassing several states in the southeast. The executive officer is generally prohibited, for a one-year period, in the case of Mr. Braun, and for a two-year period, in the case of Mr. Handy, from, directly or indirectly, knowingly soliciting or encouraging to leave the employment or other service, or the employment or service of any of our affiliates, any employee or independent contractor thereof or hiring any employee or independent contractor who has left our employment or other service or the employment or service of any of our affiliates within the one-year period (six months, in the case of Mr. Braun), which follows the termination of such employee's or independent contractor's employment or other service with us and our affiliates. The employment agreements also contain provisions that prohibit each of Messrs. Braun and Handy from intentionally interfering with our client or customer relationships (one-year prohibition for Mr. Braun and two years for Mr. Handy), in addition to provisions preventing the executive officers from making statements that may adversely affect or otherwise malign our business or reputation, or that of any of our affiliates, for a period of time following his termination of employment (two years for Mr. Handy and indefinite for Mr. Braun). As described above, if we elect to enforce the non-competition and non-solicitation provisions in Mr. Handy's employment agreement, he will be entitled to a cash payment equal to the Base Severance Amount.

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Each of Messrs. Braun and Handy is required to retain in strictest confidence, and not use for his benefit or the benefit of others, except in connection with our business and affairs and those of our affiliates, all confidential matters relating to our business and the business of any of our affiliates and to us and any of our affiliates, learned by the executive officer directly or indirectly from us or any of our affiliates, and is not to disclose such confidential information to anyone outside of our company except with our express written consent and except for confidential information which is at the time of receipt, or thereafter becomes, publicly known through no wrongful act of the executive officer, or is received from a third party not under an obligation to keep such information confidential and without breach of the executive officer's employment agreement.

The table below shows the estimated value of benefits to Messrs. Braun and Handy under the employment agreements if their employment had been terminated as of December 31, 2011. The amounts shown in the table exclude accrued but unpaid base salary, unreimbursed employment-related expenses, distributions under our 401(k) retirement plan (which plan is generally available to all of our salaried employees), and the value of equity awards that were vested by their terms as of December 31, 2011.



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| Type of Termination / Name <sup>(1)</sup>   | September 30,     | September 30,<br>Cost of Termination Under Employment Agreements |  |                           | September 30,                | September 30, |
|---|-------------------|--|--|---------------------------|------------------------------|---------------|
|   | Cash<br>Severance | Continued<br>Medical and<br>Dental<br>Benefits <sup>(1)</sup>    | Accelerated<br>Vesting of<br>Unvested<br>Equity<br>Compensation <sup>(6)</sup> | Excise Tax<br>Gross-Up    | Total Cost of<br>Termination |               |
| <b>Termination For Cause / Resignation without Good Reason</b>                                |                   |  |  |                           |                              |               |
| Raymond W. Braun  |                   |  |  |                           |                              |               |
| Charles M. Handy  | \$                | \$   |  |                           | n/a                          | \$            |
| <b>Termination by the Executive</b>   |                   |  |  |                           |                              |               |
| Raymond W. Braun  | \$                | \$   |  |                           | n/a                          | \$            |
| <b>Termination by the Company without Cause</b>   |                   |  |  |                           |                              |               |
| Raymond W. Braun  | \$ 800,000        | \$ 17,176  | \$ 580,591 <sup>(3)</sup>  |                           | n/a                          | \$ 1,397,767  |
| <b>Termination Without Cause / Resignation with Good Reason (without a change of control)</b> |                   |  |  |                           |                              |               |
| Charles M. Handy  | \$ 1,620,857      | \$ 51,528  | \$ 129,459 <sup>(2)</sup>  |                           | n/a                          | \$ 1,801,844  |
| <b>Change of Control</b>  |                   |  |  |                           |                              |               |
| Raymond W. Braun  | \$ 800,000        | \$ 17,176  | \$ 2,216,843 <sup>(4)</sup>  |                           | n/a                          | \$ 3,034,019  |
| Charles M. Handy  | \$ 1,620,857      | \$ 51,528  | \$ 129,459 <sup>(2)</sup>  | \$ 455,165 <sup>(5)</sup> |                              | \$ 2,257,009  |
| <b>Non-renewal of Employment Agreement</b>  |                   |  |  |                           |                              |               |
| Raymond W. Braun  | \$                | \$   | \$   |                           | n/a                          | \$            |
| Charles M. Handy  | \$ 1,078,765      | \$ 51,528  | \$ 129,459 <sup>(2)</sup>  |                           | n/a                          | \$ 1,259,752  |
| James W. Cogdell <sup>(7)</sup>   | \$                | \$   | \$   | \$                        |                              | \$            |
| <b>Death or Disability</b>  |                   |  |  |                           |                              |               |
| Raymond W. Braun  | \$ 400,000        | \$   | \$   |                           | n/a                          | \$ 400,000    |
| Charles M. Handy  | \$                | \$   | \$ 129,459 <sup>(2)</sup>  |                           | n/a                          | \$ 129,459    |

Note: Assumes the Company's election to subject the executive officer to the non-competition, confidentiality and non-solicitation provisions provided for in the employment agreements.

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- (1) Represents the value of continued participation in group health and dental plans for one year, in the case of Mr. Braun, or three years, in the case of Mr. Handy, calculated based on the monthly premiums for participation in the plan as of December 31, 2011, and using the assumptions used for financial reporting purposes under GAAP.
- (2) Represents the immediate vesting of unvested LTIP Units, assuming the conversion of the LTIP Units into OP Units on a 1-for-1 basis. The actual amount generally will be based on the actual number of OP Units into which the outstanding LTIP Units are converted upon termination. The value of the unvested LTIP Units is based on a per unit value of \$4.25, which was the price per share of the Company's common stock on December 30, 2011, the last day of the 2011 fiscal year.
- (3) Upon a termination of Mr. Braun's employment without cause on or prior to December 31, 2011, 33.33% of his outstanding time-based restricted shares will fully vest. Upon a termination of Mr. Braun's employment with cause on or prior to December 31, 2011, a number of his performance-based restricted shares having a value equal to \$562,500 on the grant date will immediately vest, and up to an additional number of restricted shares equal to \$187,500 at the grant date may become vested based on Mr. Braun's progress towards the achievement of performance goals/measures at termination. The value of the unvested shares of restricted stock is based on a per share value of \$4.25, which was the price per share of the Company's common stock on December 30, 2011, the last day of the 2011 fiscal year, and that additional restricted shares equal to \$187,500 at the grant date become vested at termination.
- (4) Upon a change of control (as defined in the employment agreement) while Mr. Braun is employed, his restricted shares will become fully vested. The value of the unvested shares of restricted stock is based on a per share value of \$4.25, which was the price per share of the Company's common stock on December 30, 2011, the last day of the 2011 fiscal year.
- (5) Represents the estimated golden parachute excise tax gross-up payment to Mr. Handy. The calculation of the estimated tax gross-up payment is based on a Code Section 4999 golden parachute excise tax rate of 20%, 35% federal income tax rate, 1.45% Medicare tax rate and 7.75% North Carolina state tax rate, and treats the \$542,093 payment that would be due to Mr. Handy if we elect to enforce the non-competition and non-solicitation provisions in his employment agreements as reasonable compensation for services and not subject to the excise tax.
- (6) Immediately before the effective time of the Partnership Merger, each outstanding unvested LTIP Unit will become fully vested and each vested LTIP Unit will automatically convert into an OP Unit, or fraction thereof, based on the adjusted capital account balance allocable to such LTIP Unit immediately prior to the Partnership Merger. Accordingly, holders of LTIP Units that are so converted will generally receive the per share merger consideration, without interest, less any applicable withholding taxes. Effective immediately before the effective time of the Company Merger, each outstanding share of restricted stock will become fully vested and converted into the right to receive the per share merger consideration, in each case without interest and less any applicable withholding taxes.

*Retirement of James Cogdell*

As of May 4, 2011, Mr. Cogdell resigned and was a non-executive at-will employee from May 4, 2011, through November 1, 2011. His employment with the Company terminated on November 1, 2011. In connection with the foregoing, on April 7, 2011, the Company entered into a Letter Agreement with Mr. Cogdell, which provides for, among other things, the payment by the Company of retirement payments Mr. Cogdell is entitled to pursuant to his employment agreement in an amount equal to \$1,364,720 (the "Retirement Payment"). The Retirement Payment is payable in three payments as follows: \$957,364 payable on November 2, 2011; \$37,032 payable on December 2, 2011; and \$370,324 payable on January 2, 2012. In addition, Mr. Cogdell will remain subject to the non-competition covenants in his employment agreement through November 1, 2012. Pursuant to the letter agreement, Mr. Cogdell is also entitled to receive (1) reimbursement for ordinary and reasonable out-of-pocket business expenses incurred prior to November 1, 2011, subject to applicable Company policies, (2) a lump sum payment of \$300,000 in satisfaction of five years of secretarial support Mr. Cogdell is entitled to pursuant to his employment agreement, and (3) accelerated vesting of 18,277 outstanding LTIP Units. Further, pursuant to the Letter Agreement, Mr. Cogdell has agreed to provide the Company with a release from any liability arising out of his employment, to continue to consult with the Company on matters in which he had personal involvement and to assist the Company in defending any claims that may arise out of his employment.

**Table of Contents****DIRECTOR COMPENSATION**

Each non-employee member of our Board is entitled to receive annual cash compensation for his services as a director as follows effective January 1, 2011: an annual retainer of \$25,000 per year, meeting fees of \$1,500 per meeting attended in-person and \$750 per meeting attended telephonically. Non-employee directors also receive \$750 per each committee meeting attended either in person or telephonically. In addition, the Board and committee chairs receive the following supplemental annual retainers: chairperson of the Board, \$20,000; chairperson of the Audit Committee, \$15,000; the chairperson of the Compensation Committee, \$12,000; and the chairperson of the Nominating and Corporate Governance Committee, \$8,000.

On February 24, 2011, we adopted stock ownership guidelines for our non-employee directors. These guidelines require each non-employee director to maintain ownership of shares of common stock (including common stock issuable upon conversion of OP and LTIP Units) equal to 65% of the total number of shares granted by the Company to the non-employee director as compensation. Compliance with the non-employee director stock ownership guidelines is reviewed by the Board during the first quarter of each year. The Board of Directors will determine annually whether all non-employee directors have met the minimum stock ownership guidelines.

Each year, the Board reviews its performance for the prior year. In connection with this review, the Board determines if and in what amount to make annual equity grants to non-employee directors. Each non-employee director received, on January 3, 2011, an equity award with a value of \$40,000, for their services on the Board during 2010. In addition, the Board determined to grant Messrs. Georgius, Lee, Lubar and Neugent an additional equity award with a value of \$20,000, reflecting their involvement during our Chief Executive Officer search during 2010. Mr. Lee was granted 9,967 LTIP units, Dr. Smoak was granted 6,645 LTIP units, Mr. Jennings was granted 6,645 shares of Common Stock, Mr. Spencer was granted 1,107 shares of Common Stock, and Messrs. Georgius, Lubar, and Neugent were each granted 9,967 shares of Common Stock. The shares of Common Stock and LTIP units were fully-vested upon issuance. Mr. Spencer received a pro-rata amount of the annual grant based on his retirement date as an employee.

During its meeting in November 2011, the Board determined to grant each non-employee director an equity award equal to \$40,000, effective January 2, 2012, for their services on the Board during 2011. Accordingly, on January 2, 2012, each of Messrs. Georgius, Jennings, Lee, Lubar and Neugent and Dr. Smoak received 9,346 restricted shares of common stock. These restricted shares vested upon issuance.

The following table sets forth compensation information for each of our non-employee directors for the fiscal year ended December 31, 2011:

**2011 Director Compensation**

|                             | September 30,<br>Fees Earned or Paid | September 30,<br>in   | September 30,<br>Total (\$) |
|-----------------------------|--------------------------------------|-----------------------|-----------------------------|
|                             | Cash (\$)                            | Stock Awards (\$) (1) | Total (\$)                  |
| John R. Georgius            | 57,250                               | 60,500                | 117,750                     |
| Richard B. Jennings         | 42,250                               | 40,335                | 82,585                      |
| Christopher E. Lee          | 54,250                               | 60,500                | 114,750                     |
| David J. Lubar (2)          | 38,500                               | 60,500                | 99,000                      |
| Richard C. Neugent          | 63,583                               | 60,500                | 124,083                     |
| Randolph D. Smoak, Jr. M.D. | 42,250                               | 40,335                | 82,585                      |
| Frank C. Spencer (3)        | 2,083                                | 6,719                 | 8,802                       |

- (1) This column reflects the aggregate grant date fair value of stock awards granted in 2011, including shares of common stock, OP Units and LTIP units, which were computed in accordance with ASC Topic 718. Additional information regarding the calculation of these amounts are set forth in Footnote 15 to the Company's audited consolidated financial statements included in this Annual Report.

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(2) Mr. Lubar's service as a member of the Board terminated on January 5, 2012.

(3) Mr. Spencer's service as a member of the Board terminated on February 1, 2011.

**Item 12 Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters**

The following table sets forth the beneficial ownership of Company common stock, as of March 26, 2012, for: (1) each person known to us to be the beneficial owner of more than 5% of our outstanding Company common stock, (2) each of our directors, (3) each of our named executive officers and (4) our directors and executive officers as a group (as of the date of this proxy statement). Except as otherwise described in the notes below, the following beneficial owners have sole voting power and sole investment power with respect to all shares of Company common stock set forth opposite their respective names. In accordance with SEC rules, each listed person's beneficial ownership includes:

all shares the investor actually owns beneficially or of record;

all shares over which the investor has or shares voting or dispositive control (such as in the capacity as a general partner of an investment fund); and

all shares the investor has the right to acquire within 60 days (such as upon exercise of options that are currently vested or which are scheduled to vest within 60 days).

Unless otherwise indicated, all shares are owned directly and the indicated person has sole voting and investment power. Except as indicated below, the business address of the stockholders listed below is the address of our principal executive office, 4401 Barclay Downs Drive, Suite 300, Charlotte, NC 28209-4670.

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| NAME  | September 30,<br>Number of<br>Shares and<br>Units<br>Beneficially<br>Owned(1) | September 30,<br>Percent of<br>All Shares(2) | September 30,<br>Percent of<br>All Shares<br>and Units(3) |
|---|---|--|---|
| <b>5% Stockholders</b>  |   |  |   |
| The Vanguard Group Inc.(4)  | 5,133,674   | 10.02%                                       | 8.75%   |
| BlackRock, Inc.(5)  | 3,255,456   | 6.36%  | 5.55%   |
| V3 Realty Partners, L.P.(6)                                       | 2,997,913   | 5.85%  | 5.11%   |
| Vanguard Specialized Funds Vanguard REIT Index Fund(7)            | 2,699,196   | 5.27%  | 4.60%   |
| <b>Directors</b>  |   |  |   |
| Raymond W. Braun(8)   | 596,126   | 1.16%  | 1.02%   |
| John R. Georgius(9)   | 174,198   | *  | *   |
| Richard B. Jennings(10)   | 48,366  | *  | *   |
| Christopher E. Lee(11)  | 40,498  | *  | *   |
| Richard C. Neugent(12)  | 50,083  | *  | *   |
| Randolph D. Smoak, Jr. M.D.(13)                                   | 41,523  | *  | *   |
| <b>Non-Director Named Executive Officers</b>                      |   |  |   |
| Charles M. Handy(14)  | 165,062   | *  | *   |
| James W. Cogdell(15)  | 2,291,591   | 4.47%  | 3.90%   |
| <b>Directors and Executive Officers as Group</b> (8 persons) (16) | 3,388,140   | 6.61%  | 5.77%   |

- (1) Beneficial ownership is determined in accordance with Rule 13d-3 of the Exchange Act. A person is deemed to be the beneficial owner of any shares of Company common stock if that person has or shares voting power or investment power with respect to those shares, or has the right to acquire beneficial ownership at any time within 60 days of the date of the table. As used herein, "voting power" is the power to vote or direct the voting of shares and "investment power" is the power to dispose or direct the disposition of shares.
- (2) Assumes a total of 51,237,634 shares of Company common stock are outstanding as of March 26, 2012. In addition, amounts listed for each individual assume that all units, including vested LTIP Units, beneficially owned by such individual are exchanged for shares of Company common stock, and amounts for all directors and executive officers as a group assume all vested LTIP Units held by them are exchanged for shares of Company common stock, but none of the units held by other persons are exchanged for shares of Company common stock.
- (3) Assumes a total of 58,684,599 shares of Company common stock and OP Units in our operating partnership, including vested and unvested LTIP Units, outstanding as of March 26, 2012, which is comprised of 51,237,634 shares of Company common stock, 7,085,075 OP Units which may be exchanged for cash or, at our option, shares of Company common stock, 322,236 vested LTIP Units and 39,654 unvested LTIP Units.
- (4) Information is based on a Schedule 13G filed with the SEC by The Vanguard Group Inc. on February 7, 2012. The Vanguard Group Inc. has sole voting power and shared dispositive power over 76,672 shares of Company common stock and sole dispositive power over 5,057,002 of these shares. Vanguard Fiduciary Trust Company, a wholly-owned subsidiary of The Vanguard Group Inc., is the beneficial owner of 76,672 shares of Company common stock as a result of its serving as investment manager of collective trust accounts. The address for The Vanguard Group Inc. is 100 Vanguard Blvd., Malvern, PA 19355.
- (5) Information is based on a Schedule 13G filed with the SEC by BlackRock, Inc. on February 13, 2011. BlackRock, Inc. has sole voting power and sole dispositive power over 3,255,456 shares of Company common stock. The address for BlackRock, Inc. is 40 East 52nd Street, New York, New York 10022.

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- (6) Information is based on a Schedule 13G filed with the SEC by V3 Realty Partners, L.P. with the SEC on February 10, 2011. V3 Realty Partners, L.P. has shared voting power and shared dispositive power over 2,389,816 shares of Company common stock. V3 Trading Vehicle, L.P. has shared voting power and shared dispositive power over 608,097 shares of Company common stock. V3 Capital Advisors, LLC, V3 Capital Management, L.P. and Mr. Charles Fitzgerald each has shared voting power and shared dispositive power over 2,997,913 shares of Company common stock. V3 Capital Advisors, LLC serves as the general partner of V3 Realty Partners, L.P. and V3 Trading Vehicle, L.P., and V3 Capital Management, L.P. serves as the investment manager of V3 Realty Partners, L.P. and V3 Trading Vehicle, L.P. Mr. Charles Fitzgerald serves as the managing member of V3 Capital Advisors, LLC. The address of V3 Realty Partners, L.P. is 535 Madison Avenue, New York, NY 10022.
- (7) Information is based on a Schedule 13G filed with the SEC by Vanguard Specialized Funds Vanguard REIT Index Fund on January 27, 2012. Vanguard Specialized Funds Vanguard REIT Index Fund has sole voting power over 2,699,196 shares of Company common stock. The address of Vanguard Specialized Funds Vanguard REIT Index Fund is 100 Vanguard Blvd., Malvern, PA 19355.
- (8) Raymond W. Braun is our Chief Executive Officer and is considered a named executive officer. This amount includes 521,610 restricted shares of Company common stock and 74,516 shares of Company common stock.
- (9) This amount includes 164,494 shares of Company common stock and 9,704 OP Units.
- (10) This amount includes 48,366 shares of Company common stock.
- (11) This amount includes 13,846 shares of Company common stock, 16,685 OP Units and 9,967 fully vested LTIP Units.
- (12) This amount includes 43,514 shares of Company common stock and 6,569 OP Units.
- (13) This amount includes 25,896 shares of Company common stock, 8,982 OP Units and 6,645 fully vested LTIP Units.
- (14) Charles M. Handy is our Chief Financial Officer, Executive Vice President and Secretary. This amount includes 2,000 shares of Company common stock, 111,320 OP Units, 21,281 fully vested LTIP Units and 30,461 unvested LTIP Units.

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(15) James W. Cogdell served as the chairman of our board of directors until May 4, 2011 and retired from his position as the Executive Officer of the Operating Partnership on November 1, 2011. This amount includes 1,348,203 shares of Company common stock and 943,388 OP Units.

(16) Mr. Cogdell has been excluded from the group total because he is neither a director nor an executive officer of the Company as of the date of this proxy statement.

**Equity Compensation Plan Information**

The following table provides information as of December 31, 2011, about the Company's securities that may be issued under its existing equity compensation plans.

|   | September 30,<br>(a)<br>Number of<br>Securities<br>to be Issued Upon<br>Exercise of<br>Outstanding Options,<br>Warrants and Rights | September 30,<br>(b)<br>Weighted-Average<br>Exercise Price of<br>Outstanding Options,<br>Warrants and Rights | September 30,<br>(c)<br>Number of Securities<br>Remaining Available<br>for<br>Future Issuance<br>Under<br>Equity Compensation<br>Plans (Excluding Securities<br>Reflected in Column (a)) <sup>(2)</sup> |
|---|--|--|---|
| Plan Category   |  |  |   |
| Equity Compensation Plans Approved by Stockholders <sup>(1)</sup> |  |  | 763,117   |
| Equity Compensation Plans Not Approved by Stockholders            |  |  |   |
| Total   |  |  |   |

<sup>(1)</sup> Includes the LTIP Plans.

<sup>(2)</sup> All such shares are available for issuance pursuant to grants of full-value stock awards.

**Item 13 Certain Relationships, Related Transactions, and Director Independence**

In 2005, our Board formally adopted a written policy with respect to transactions involving related parties. Pursuant to this policy, all related party transactions (generally, transactions involving amounts exceeding \$120,000 in which a related party (directors and executive officers or their immediate family members) or stockholders owning 5% or more of our outstanding stock) shall be subject to approval or ratification:

Pursuant to Maryland law, a contract or other transactions between us and a director or between us and any other corporation or other entity in which any of our directors is a director or has a material financial interest is not void or voidable solely on the grounds of such common directorship or interest, the presence of such director at the meeting at which the contract or transaction is authorized, approved or ratified or the counting of the director's vote in favor thereof, provided that:

the material facts relating to the common directorship or interest and as to the transaction must be disclosed to our Board or a committee of our Board, and our Board or committee must authorize, approve or ratify the transaction or contract by the affirmative vote of a majority of disinterested directors, even if the disinterested directors constitute less than a quorum;

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the material facts relating to the common directorship or interest and as to the transaction must be disclosed to our stockholders entitled to vote thereon, and the transaction must be authorized, approved or ratified by a majority of the votes cast by our stockholders entitled to vote (other than the votes of shares owned of record or beneficially by the interested director); or

the transaction or contract is fair and reasonable to us at the time it is authorized, ratified or approved.



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Our policy requires that all contracts and transactions between us and any related parties must be approved by the affirmative vote of a majority of our disinterested directors. Where appropriate, in the judgment of our disinterested directors, our Board may obtain a fairness opinion or engage independent counsel to represent the interests of non-affiliated stockholders, although our Board will have no obligation to do so. Since January 1, 2011, there have been no transactions between us and any related parties.

**Director Independence**

Our Guidelines provide that a majority of our directors serving on our Board must be independent as required by the listing standards of the NYSE and the applicable rules promulgated by the SEC. Our Board has affirmatively determined, based upon its review of all relevant facts and circumstances, that each of the following directors has no material relationship with us (either directly or as a partner, stockholder or officer of an organization that has a relationship with us) and is independent under the listing standards of the NYSE and the applicable rules promulgated by the SEC: Messrs. Georgius, Lee, Jennings, Neugent and Dr. Smoak. The Board previously determined that Mr. David J. Lubar, our former director, was independent under the listing standards of the NYSE and the applicable rules promulgated by the SEC. Mr. Lubar served as a director during the period covered by this Annual Report and resigned from our Board on January 5, 2012. The Board has determined that Mr. Braun, our President and Chief Executive Officer, is not an independent director due to his relationship with us as a named executive officer.

**Item 14 Principal Accountant Fees and Services**

The following table presents aggregate fees billed to us for the fiscal years ended December 31, 2011 and 2010 by our principal accounting firm, Deloitte & Touche LLP, the member firms of Deloitte Touche Tohmatsu, and their respective affiliates (collectively, Deloitte & Touche ).

**Accounting Fees and Services**

| Type of Fees  | September 30,<br>2011 | September 30,<br>2010 |
|---|-----------------------|-----------------------|
| <b>Audit Fees</b>   |                       |                       |
| Audit of our annual financial statements and internal control over financial reporting, review of our financial statements included in our Quarterly Reports on Forms 10-Q, and audit of MEA Holdings, Inc. and Erdman Company financial statements | \$ 809,863            | \$ 906,765            |
| Comfort letters, consents and assistance with documents filed with the SEC  | 15,401                | 220,156               |
| <b>Total</b>  | <b>\$ 825,264</b>     | <b>\$ 1,126,921</b>   |
| <b>Audit Committee Pre-Approval of Services by the Independent Auditor</b>  |                       |                       |

In accordance with its Charter and applicable rules and regulations adopted by the SEC, the Audit Committee reviews and pre-approves any engagement of our independent registered public accounting firm to provide audit, review, or attest services or non-audit services and the fees for any such services. The Audit Committee annually considers and, if appropriate, approves the provision of audit services by the independent registered public accounting firm. In addition, the Audit Committee periodically considers and, if applicable, approves the provision of any additional audit and non-audit services by our independent registered public accounting firm that are neither encompassed by the Audit Committee's annual pre-approval nor prohibited by applicable rules and regulations of the SEC. The Audit Committee has delegated to the Chairman of the Audit Committee, Mr. Georgius, the authority to pre-approve, on a case-by-case basis, any such additional audit and non-audit services to be performed by our independent registered public accounting firm. Mr. Georgius reports any decision to pre-approve such services to the Audit Committee at its next regular meeting. For 2011, the audit committee pre-approved 100% of the services for which fees were incurred.

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**PART IV**

**Item 15. Exhibits and Financial Statement Schedules**

- 2.1 Agreement and Plan of Merger, dated as of December 24, 2011, by and among Cogdell Spencer Inc., Cogdell Spencer LP, Ventas, Inc., TH Merger Sub, LLC and TH Merger Corp, Inc., incorporated by reference to Exhibit 2.1 of the Company's Current Report on Form 8-K filed with the SEC on December 27, 2011.
- 2.2 Stock Purchase Agreement, dated as of December 24, 2011, among Madison DB Acquisition, LLC, Cogdell Spencer TRS Holdings, LLC and Cogdell Spencer Inc., incorporated by reference to Exhibit 2.1 of the Company's Current Report on Form 8-K filed with the SEC on December 27, 2011.
- 3.1 Articles of Amendment and Restatement of Cogdell Spencer Inc., incorporated by reference to Exhibit 3.1 of the Company's Registration Statement on Form S-11 (File No. 333-127396).
- 3.2 Articles Supplementary designating Cogdell Spencer Inc.'s 8.500% Series A Cumulative Redeemable Perpetual Preferred Stock, liquidation preference \$25.00 per share, par value \$0.01 per share, incorporated by reference to Exhibit 3.2 of the Company's Registration Statement on Form 8-A (File No. 001-32649).
- 3.3 Bylaws of Cogdell Spencer Inc., incorporated by reference to Exhibit 3.2 of Cogdell Spencer Inc.'s Registration Statement on Form S-11 (File No. 333-127396).
- 3.4 Second Amendment to First Amended and Restated Agreement of Limited Partnership of Cogdell Spencer LP, incorporated by reference to Exhibit 10.1 of Cogdell Spencer Inc.'s Current Report on Form 8-K filed with the SEC on December 21, 2010.
- 3.5 First Amendment to First Amended and Restated Agreement of Limited Partnership of Cogdell Spencer LP., incorporated by reference to Exhibit 3.1 of the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2008.
- 3.6 Amended and Restated Agreement of Limited Partnership of Cogdell Spencer LP, incorporated by reference to Exhibit 3.3 of the Company's Registration Statement on Form S-11 (File No. 333-127396).
- 3.7 Declaration of Trust of CS Business Trust I., incorporated by reference to Exhibit 3.4 of the Company's Registration Statement on Form S-11 (File No. 333-127396).
- 3.8 Declaration of Trust of CS Business Trust II, incorporated by reference to Exhibit 3.5 of the Company's Registration Statement on Form S-11 (File No. 333-127396).
- 4.1 Form of stock certificate, incorporated by reference to Exhibit 4.0 of the Company's Registration Statement on Form S-11 (File No. 333-127396).

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- 4.2 Form of stock certificate evidencing the 8.500% Series A Cumulative Redeemable Perpetual Preferred Stock, liquidation preference \$25.00 per share, par value \$0.01 per share, incorporated by reference to Exhibit 4.1 of the Company's Registration Statement on Form 8-A (File No. 001-32649).
- 10.1 Form of Registration Rights Agreement, by and among Cogdell Spencer Inc. and the parties listed on Schedule I thereto, incorporated by reference to Exhibit 10.1 of the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2005.
- 10.2 Cogdell Spencer Inc. 2010 Long Term Incentive Compensation Plan, incorporated by reference to Exhibit 10.1 of the Company's Current Report on Form 8-K (File No. 001-32649) filed with the SEC on May 7, 2010 (Items 5.02 and 5.07).
- 10.3 Form of 2005 Long-Term Stock Incentive Plan, incorporated by reference to Exhibit 10.3 of the Company's Registration Statement on Form S-11 (File No. 333-127396).
- 10.4 Form of Long-Term Stock Incentive Plan Award for employees without employment agreements, incorporated by reference to Exhibit 10.4 of the Company's Registration Statement on Form S-11 (File No. 333-127396).
- 10.5 Form of Cogdell Spencer Inc. Performance Bonus Plan, incorporated by reference to Exhibit 10.5 of the Company's Registration Statement on Form S-11 (File No. 333-127396).
- 10.6 Merger Agreement for Cogdell Spencer Inc., CS Merger Sub LLC and Cogdell Spencer Advisors, Inc. dated August 9, 2005, incorporated by reference to Exhibit 10.6 of the Company's Registration Statement on Form S-11 (File No. 333-127396).
- 10.7 Form of Indemnification Agreement, incorporated by reference to Exhibit 10.7 of the Company's Registration Statement on Form S-11 (File No. 333-127396).
- 10.8 Letter Agreement, between Cogdell Spencer Inc. and James W. Cogdell, dated April 7, 2011, incorporated by reference to the Exhibit 10.1 of the Company's Current Report on Form 8-K filed with the SEC on April 13, 2011.
- 10.9 Employment Agreement, dated September 20, 2010, by and between Cogdell Spencer Inc. and Raymond W. Braun, incorporated by reference to Exhibit 10.1 of the Company's Current Report on Form 8-K filed with the SEC on September 24, 2010.
- 10.10 Engagement Letter from the Company to Realty Capital International Inc., incorporated by reference to Exhibit 10.11 of the Company's Registration Statement on Form S-11 (File No. 333-127396).
- 10.11 Irrevocable Exchange and Subscription Agreement by and among James W. Cogdell, Cogdell Spencer Advisors, Inc., Cogdell Spencer LP and Cogdell Spencer Inc., incorporated by reference to Exhibit 10.12 of the Company's Registration Statement on Form S-11 (File No. 333-127396).
- 10.12 Irrevocable Exchange and Subscription Agreement by and among Raymond W. Braun, Cogdell Spencer Advisors, Inc., Cogdell Spencer LP and Cogdell Spencer Inc., incorporated by reference to Exhibit 10.13 of the Company's Registration Statement on Form S-11 (File No. 333-127396).
- 10.13 Form of Irrevocable Exchange and Subscription Agreement for all holders of interests in the Existing Entities, with the exclusion of James W. Cogdell and Raymond W. Braun, incorporated by reference to Exhibit 10.14 of the Company's Registration Statement on Form S-11 (File No. 333-127396).
- 10.14 Form of Tax Protection Agreement for Existing Entities, except for Cabarrus POB, LLC, Medical Investors I, LLC and Medical Investors III, LLC., incorporated by reference to Exhibit 10.15 of the Company's Registration Statement on Form S-11 (File No. 333-127396).
- 10.15 Form of Tax Protection Agreement for Cabarrus POB, LLC, Medical Investors I, LLC and Medical Investors III, LLC., incorporated by reference to Exhibit 10.16 of the Company's Registration Statement on Form S-11 (File No. 333-127396).
- 10.16 Form of Transaction Agreement by and among Cogdell Spencer Inc., Cogdell Spencer LP, the applicable Existing Entity and CS Merger Sub LLC., incorporated by reference to Exhibit 10.17 of the Company's Registration Statement on Form S-11 (File No. 333-127396).

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- 10.17 Form of Cogdell Spencer Inc. 2005 Equity Incentive Plan Restricted Stock Award Agreement, incorporated by reference to Exhibit 10.19 of the Company's Registration Statement on Form S-11 (File No. 333-127396).
- 10.18 Put Assignment Agreement dated August 11, 2005., incorporated by reference to Exhibit 10.20 of the Company's Registration Statement on Form S-11 (File No. 333-127396).
- 10.19 Form of Consent and Election Form, incorporated by reference to Exhibit 10.21 of the Company's Registration Statement on Form S-11 (File No. 333-127396).
- 10.20 Form of Long-Term Stock Incentive Plan Award for employees with employment agreements, incorporated by reference to Exhibit 10.22 of the Company's Registration Statement on Form S-11 (File No. 333-127396).
- 10.21 Schedule to Exhibit 10.14 reflecting consideration to be received by Randolph D. Smoak, M.D. and Charles M. Handy, incorporated by reference to Exhibit 10.23 to the Company's Registration Statement on Form S-11 (File No. 333-127396).
- 10.22 Methodist Professional Center Purchase and Sale Agreement dated December 13, 2005, incorporated by reference to Exhibit 10.1 of the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2006.
- 10.23 Hanover Medical Office Building One and 1808/1818 Verdugo Boulevard Purchase and Sale Agreement dated March 1, 2006, incorporated by reference to Exhibit 10.2 of the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2006.
- 10.24 Agreement and Plan of Merger, dated January 23, 2008, by and among Cogdell Spencer LP, Goldenboy Acquisitions Corp., MEA Holdings, Inc., Marshall Erdman & Associates, Inc., Marshall Erdman Development, LLC, David Pelisek, David Lubar and Scott Ransom, incorporated by reference to Exhibit 10.1 of the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2008..
- 10.25 Amendment to Agreement and Plan of Merger, dated March 10, 2008, by and among Cogdell Spencer LP, Goldenboy Acquisitions Corp., MEA Holdings, Inc., Marshall Erdman & Associates, Inc., Marshall Erdman Development, LLC, David Pelisek, David Lubar and Scott Ransom, incorporated by reference to Exhibit 10.2 of the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2008.
- 10.26 Escrow Agreement, dated March 10, 2008, by and between Cogdell Spencer LP, David Pelisek, David Lubar, Scott Ransom and Mellon Investor Services LLC, incorporated by reference to Exhibit 10.3 of the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2008.
- 10.27 Exchange Agent Agreement, dated March 10, 2008, by and between Cogdell Spencer LP, David Pelisek, David Lubar, Scott Ransom and Mellon Investor Services LLC, incorporated by reference to Exhibit 10.4 of the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2008.
- 10.28 Voting Agreement, dated January 23, 2008, by and among the Shareholders (as defined therein) of MEA Holdings, Inc. for the benefit of Cogdell Spencer LP and Goldenboy Acquisitions Corp, incorporated by reference to Exhibit 10.5 of the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2008.
- 10.29 Voting Agreement, dated January 23, 2008, by and among Baird Capital Partners III Limited Partnership, BCP III Affiliates Fund Limited Partnership, BCP III Special Affiliates Fund Limited Partnership, Lubar Capital LLC, James Cogdell and Frank Spencer, incorporated by reference to Exhibit 10.6 of the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2008.
- 10.30 Contributing Shareholders Voting Agreement, dated March 10, 2008, by and among James Cogdell, Frank Spencer, David Pelisek, David Lubar and Scott Ransom, incorporated by reference to Exhibit 10.7 of the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2008.

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- 10.31 Director Designation Agreement, dated March 10, 2008, by and between Cogdell Spencer Inc. and David Lubar incorporated by reference to Exhibit 10.8 of the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2008.
- 10.32 Registration Rights Agreement, dated March 10, 2008, by and among Cogdell Spencer Inc. and certain persons listed on Schedule I thereto, incorporated by reference to Exhibit 10.9 of the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2008.
- 10.33 Registration Rights Agreement, dated January 28, 2008, by and among Cogdell Spencer Inc. and KeyBanc Capital Markets Inc. on behalf of the persons listed on Schedule I thereto, incorporated by reference to Exhibit 10.10 of the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2008.
- 10.34 Amended and Restated Guaranty Agreement, dated as of March 1, 2011, among the Guarantors named therein and Bank of America, N.A., as Agent for the benefit of the Lenders, incorporated by reference to Exhibit 10.35 of the Company's Annual Report on Form 10-K for the year ended December 31, 2010.
- 10.35 Amended and Restated Credit Agreement, dated March 1, 2011, among the Company, as a Guarantor, Cogdell Spencer LP, as Borrower, and Bank of America, N.A., as Administrative Agent, Swing Line Lender and L/C Issuer, KeyBank National Association, as Syndication Agent, Branch Banking and Trust Company, Citicorp North America, Inc. and Wells Fargo Bank, National Association, as co-documentation agents, and the other lenders thereto, incorporated by reference to Exhibit 10.2 of the Company's Current Report on Form 8-K filed with the SEC on March 7, 2011.
- 10.36 Employment Agreement, dated as of September 20, 2010, by and between Erdman Company and Scott A. Ransom, incorporated by reference to Exhibit 10.2 of the Company's Current Report on Form 8-K filed with the SEC on September 24, 2010.
- 10.37 Form of Contribution Agreement by and among Cogdell Spencer Inc., Cogdell Spencer LP and each of the persons set forth on Schedule I to Exhibit 10.15 incorporated by reference to Exhibit 10.15 of the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2008.
- 10.38 Contribution Agreement Side Letter, dated March 10, 2008, by Cogdell Spencer Inc. and Cogdell Spencer LP delivered to David Pelisek, David Lubar and Scott Ransom, incorporated by reference to Exhibit 10.16 of the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2008.
- 10.39 Amended and Restated Employment Agreement, dated December 1, 2008, by and between Cogdell Spencer Inc., Cogdell Spencer LP and Charles M. Handy, incorporated by reference to Exhibit 10.1 of the Company's Current Report on Form 8-K filed with the SEC on December 4, 2008.
- 10.40 Amendment to Amended and Restated Employment Agreement, dated September 23, 2011, by and among Cogdell Spencer Inc., Cogdell Spencer LP and Charles M. Handy, incorporated by reference to Exhibit 10.1 of the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2011.
- 10.41 Separation and Release Agreements, dated July 8, 2008, by and between Cogdell Spencer Inc., Cogdell Spencer LP and Heidi Wilson, incorporated by reference to Exhibit 10.1 of the Company's Current Report on Form 8-K filed with the SEC on July 14, 2008.
- 10.42 Letter Agreement, between Cogdell Spencer Inc. and Frank Spencer, dated May 3, 2010, incorporated by reference to Exhibit 10.2 of the Company's Current Report on Form 8-K filed with the SEC on May 3, 2010.
- 10.43 Award Restricted Stock Award Agreement, effective as of September 24, 2010, by and between Cogdell Spencer Inc. and Raymond William Braun, incorporated by reference to Exhibit 10.3 of the Company's Current Report on Form 8-K filed with the SEC on September 24, 2010.

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| 10.44                | Performance Award Restricted Stock Award Agreement, effective as of September 24, 2010, by and between Cogdell Spencer Inc. and Raymond William Braun, incorporated by reference to Exhibit 10.4 of the Company's Current Report on Form 8-K filed with the SEC on September 24, 2010.   |
| 10.45                | Subscription Agreement, effective as of September 20, 2010, by and between Cogdell Spencer Inc. and Raymond William Braun, incorporated by reference to Exhibit 10.5 of the Company's Current Report on Form 8-K filed with the SEC on September 24, 2010.   |
| 10.46                | Credit Agreement, dated August 2, 2011, among Cogdell Spencer Inc., Cogdell Spencer LP, and Bank of America, N.A. and the other lenders thereto, incorporated by reference to Exhibit 10.1 of the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2011.   |
| 10.47                | Amendment No. 1 to Credit Agreement, dated as of November 1, 2011, by and among Cogdell Spencer Inc., Cogdell Spencer LP, and Bank of America, N.A. and the other lenders thereto thereto, incorporated by reference to Exhibit 10.2 of the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2011.  |
| 10.48 <sup>(1)</sup> | Amendment No. 2 to Credit Agreement, dated as of December 22, 2011, by and among Cogdell Spencer Inc., Cogdell Spencer LP, and Bank of America, N.A. and the other lenders thereto thereto.  |
| 10.49 <sup>(1)</sup> | Amendment No. 3 to Credit Agreement, dated as of January 31, 2012, by and among Cogdell Spencer Inc., Cogdell Spencer LP, and Bank of America, N.A. and the other lenders thereto thereto.   |
| 10.50 <sup>(1)</sup> | Amendment No. 4 to Credit Agreement and Waiver dated as of March 27, 2012, by and among Cogdell Spencer LP, Cogdell Spencer Inc., each lender party thereto, each guarantor party thereto and Bank of America, N.A.  |
| 10.51                | Guaranty Agreement, dated as of August 2, 2011, among Anchor Cogdell Covington, LLC, Anchor Cogdell florcen, LLC and Anchor Cogdell Doylestown, LP, and Bank of America, N.A., as Administrative Agent for the benefit of the Lenders, incorporated by reference to Exhibit 10.2 of the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2011.   |
| 10.52                | Securities Pledge Agreement, dated as of August 2, 2011, among Cogdell Spencer LP and Cogdell Spencer Advisors Management, LLC, and Bank of America, N.A., as Administrative Agent for each of the Secured Parties, incorporated by reference to Exhibit 10.3 of the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2011.  |
| 10.53                | Amendment No. 1 to Amended and Restated Credit Agreement, dated as of June 16, 2011, among the Cogdell Spencer Inc., Cogdell Spencer LP and Bank of America, N.A., and the other lenders thereto, incorporated by reference to Exhibit 10.4 of the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2011.  |
| 10.54                | Amendment No. 2 to Amended and Restated Credit Agreement, dated as of August 1, 2011, among the Cogdell Spencer Inc., Cogdell Spencer LP, and Bank of America, N.A., and the other lenders thereto, incorporated by reference to Exhibit 10.5 of the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2011.  |
| 10.55 <sup>(1)</sup> | Amendment No. 3 to Amended and Restated Credit Agreement and Waiver dated as of March 27, 2012, by and among Cogdell Spencer LP, Cogdell Spencer Inc., each lender party thereto, each guarantor party thereto and Bank of America, N.A.   |
| 14.1                 | Code of Ethics, incorporated by reference to Exhibit 14.1 of the Company's Annual Report on Form 10-K for the year ended December 31, 2005.  |
| 21.1                 | List of Subsidiaries of Cogdell Spencer Inc.   |
| 23.1 <sup>(1)</sup>  | Consent of Deloitte & Touche LLP.  |
| 31.1 <sup>(1)</sup>  | Certification by the Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act.  |
| 31.2 <sup>(1)</sup>  | Certification by the Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act.  |
| 32.1 <sup>(1)</sup>  | Certifications pursuant to Section 1350.   |
| 101                  | The following financial information from Cogdell Spencer Inc.'s Annual Report on Form 10-K for the year ended December 31, 2011 filed with the Securities and Exchange Commission on March 15, 2012, formatted in XBRL includes: (i) Condensed Consolidated Statements of Operations for the fiscal periods ended December 31, 2011, December 31, 2010 and December 31, 2009, (ii) Condensed Consolidated Balance Sheets at December 31, 2011 and December 31, 2010, (iii) Condensed Consolidated Statements of Changes in Equity for the fiscal periods ended December 31, 2011, December 31, 2010 and December 31, 2009 (iv) Condensed Consolidated Cash Flow Statements for the fiscal periods ended December 31, 2011, December 31, 2010 and December 31, 2009, and (v) the Notes to the Condensed Consolidated Financial Statements.* |

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(1) Filed herewith

\* Submitted electronically herewith. Pursuant to Rule 406T of Regulation S-T, the Interactive Data Files on Exhibit 101 hereto are deemed not filed or part of a registration statement or prospectus for purposes of Sections 11 or 12 of the Securities Act of 1933, as amended, are deemed not filed for purposes of Section 18 of the Securities Exchange Act of 1934, as amended, and otherwise are not subject to liability under those sections.

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**SIGNATURES**

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, as amended, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

COGDELL SPENCER INC.

*Registrant*

Date: March 30, 2012

/s/ Raymond W. Braun  
Raymond W. Braun  
*President and Chief Executive Officer*  
*(Principal Executive Officer)*

Date: March 30, 2012

/s/ Charles M. Handy  
Charles M. Handy  
*Executive Vice President and Chief Financial Officer*  
*(Principal Financial and Accounting Officer)*

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, this report has been signed below by the following persons on behalf of the Registrant and in the capacities and on the dates indicated.

Date: March 30, 2012

/s/ Richard C. Neugent  
Richard C. Neugent

*Chairman of the Board of Directors*

Date: March 30, 2012

/s/ Raymond W. Braun  
Raymond W. Braun

*President, Chief Executive Officer and Director*

Date: March 30, 2012

/s/ John R. Georgius  
John R. Georgius

*Director*

Date: March 30, 2012

/s/ Richard B. Jennings  
Richard B. Jennings

*Director*

Date: March 30, 2012

/s/ Christopher E. Lee  
Christopher E. Lee

*Director*

Date: March 30, 2012

/s/ Randolph D. Smoak  
Randolph D. Smoak, M.D.

*Director*