

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549
FORM 10-Q

(Mark One)

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

For the quarterly period ended June 30, 2023

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: 001-39448



American Strategic Investment Co.

(Exact name of registrant as specified in its charter)

Maryland

(State or other jurisdiction of incorporation or organization)

46-4380248

(I.R.S. Employer Identification No.)

650 Fifth Ave., 30th Floor, New York, NY 10019

(Address of principal executive offices) (Zip Code)

Registrant's telephone number, including area code: (212) 415-6500

Former name, former address and former fiscal year, if changed since last report: Not Applicable

Securities registered pursuant to Section 12(b) of the Act: None.

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Class A common stock, \$0.01 par value per share	NYC	New York Stock Exchange
Class A Preferred Stock Purchase Rights		New York Stock Exchange

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, every Interactive Data File required to be submitted 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 such files). Yes ☒ No ☐

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

Large accelerated filer	<input type="checkbox"/>	Accelerated filer	<input type="checkbox"/>
Non-accelerated filer	<input checked="" type="checkbox"/>	Smaller reporting company	<input checked="" type="checkbox"/>
		Emerging growth company	<input type="checkbox"/>

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. ☐

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

As of August 8, 2023, the registrant had 2,326,993 shares of Class A common stock outstanding.

AMERICAN STRATEGIC INVESTMENT CO.

INDEX TO FINANCIAL STATEMENTS

	Page
<u>PART I - FINANCIAL INFORMATION</u>	
<u>Item 1. Financial Statements</u>	
<u>Consolidated Balance Sheets as of June 30, 2023 (Unaudited) and December 31, 2022</u>	<u>3</u>
<u>Consolidated Statements of Operations and Comprehensive Loss for the Three and Six Months Ended June 30, 2023 and 2022 (Unaudited)</u>	<u>4</u>
<u>Consolidated Statements of Changes in Equity for the Three and Six Months Ended June 30, 2023 (Unaudited)</u>	<u>5</u>
<u>Consolidated Statements of Changes in Equity for the Three and Six Months Ended June 30, 2022 (Unaudited)</u>	<u>6</u>
<u>Consolidated Statements of Cash Flows for the Six Months Ended June 30, 2023 and 2022 (Unaudited)</u>	<u>7</u>
<u>Notes to Consolidated Financial Statements (Unaudited)</u>	<u>8</u>
<u>Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations</u>	<u>33</u>
<u>Item 3. Quantitative and Qualitative Disclosures About Market Risk</u>	<u>45</u>
<u>Item 4. Controls and Procedures</u>	<u>45</u>
<u>PART II - OTHER INFORMATION</u>	<u>46</u>
<u>Item 1. Legal Proceedings</u>	<u>46</u>
<u>Item 1A. Risk Factors</u>	<u>46</u>
<u>Item 2. Unregistered Sales of Equity Securities and Use of Proceeds</u>	<u>46</u>
<u>Item 3. Defaults Upon Senior Securities</u>	<u>46</u>
<u>Item 4. Mine Safety Disclosures</u>	<u>46</u>
<u>Item 5. Other Information</u>	<u>46</u>
<u>Item 6. Exhibits</u>	<u>46</u>
<u>Signatures</u>	<u>48</u>

PART I — FINANCIAL INFORMATION
Item 1. Financial Statements.

AMERICAN STRATEGIC INVESTMENT CO.

CONSOLIDATED BALANCE SHEETS
(In thousands, except for share and per share data)

	June 30, 2023	December 31, 2022
ASSETS	(Unaudited)	
Real estate investments, at cost:		
Land	\$ 192,489	\$ 192,600
Buildings and improvements	577,761	576,686
Acquired intangible assets	63,445	71,848
Total real estate investments, at cost	833,695	841,134
Less accumulated depreciation and amortization	(171,721)	(167,978)
Total real estate investments, net	661,974	673,156
Cash and cash equivalents	7,052	9,215
Restricted cash	6,112	6,902
Operating lease right-of-use asset	54,846	54,954
Prepaid expenses and other assets	5,540	5,624
Derivative asset, at fair value	1,184	1,607
Straight-line rent receivable	29,203	29,116
Deferred leasing costs, net	9,581	9,881
Total assets	\$ 775,492	\$ 790,455
LIABILITIES AND STOCKHOLDERS' EQUITY		
Mortgage notes payable, net	\$ 394,931	\$ 394,159
Accounts payable, accrued expenses and other liabilities (including amounts due to related parties of \$ 401 and \$ 118 at June 30, 2023 and December 31, 2022, respectively)	12,045	12,787
Operating lease liability	54,687	54,716
Below-market lease liabilities, net	2,495	3,006
Deferred revenue	3,835	4,211
Total liabilities	467,993	468,879
Preferred stock, \$ 0.01 par value, 50,000,000 shares authorized, none issued and outstanding at June 30, 2023 and December 31, 2022	—	—
Common stock, \$ 0.01 par value, 300,000,000 shares authorized, 2,302,950 and 1,886,298 shares issued and outstanding as of June 30, 2023 and December 31, 2022, respectively	23	19
Additional paid-in capital	703,587	698,761
Accumulated other comprehensive income	1,203	1,637
Distributions in excess of accumulated earnings	(422,012)	(399,355)
Total stockholders' equity	282,801	301,062
Non-controlling interests	24,698	20,514
Total equity	307,499	321,576
Total liabilities and equity	\$ 775,492	\$ 790,455

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

AMERICAN STRATEGIC INVESTMENT CO.

CONSOLIDATED STATEMENTS OF OPERATIONS AND COMPREHENSIVE LOSS
(In thousands, except for share and per share data)
(Unaudited)

	Three Months Ended June 30,		Six Months Ended June 30,	
	2023	2022	2023	2022
Revenue from tenants	\$ 15,782	\$ 16,231	\$ 31,316	\$ 31,877
Operating expenses:				
Asset and property management fees to related parties	1,988	1,785	3,872	3,707
Property operating	8,353	8,329	16,774	16,926
Impairment of real estate investments	151	—	151	—
Equity-based compensation	2,304	2,201	4,504	4,321
General and administrative	2,439	5,175	5,620	8,161
Depreciation and amortization	6,749	7,041	13,701	14,022
Total operating expenses	21,984	24,531	44,622	47,137
Operating loss	(6,202)	(8,300)	(13,306)	(15,260)
Other income (expense):				
Interest expense	(4,707)	(4,703)	(9,370)	(9,418)
Other income (expense)	10	2	19	(35)
Total other expense	(4,697)	(4,701)	(9,351)	(9,453)
Net loss and Net loss attributable to common stockholders	<u>\$ (10,899)</u>	<u>\$ (13,001)</u>	<u>\$ (22,657)</u>	<u>\$ (24,713)</u>
Other comprehensive income (loss):				
Change in unrealized (loss) gain on derivative	(52)	622	(434)	2,372
Other comprehensive (loss) income	(52)	622	(434)	2,372
Comprehensive loss	<u>\$ (10,951)</u>	<u>\$ (12,379)</u>	<u>\$ (23,091)</u>	<u>\$ (22,341)</u>
Weighted-average shares outstanding — Basic and Diluted	<u>2,286,797</u>	<u>1,679,211 ⁽¹⁾</u>	<u>2,163,524</u>	<u>1,670,880 ⁽¹⁾</u>
Net loss per share attributable to common stockholders — Basic and Diluted	<u>\$ (4.77)</u>	<u>\$ (7.77) ⁽¹⁾</u>	<u>\$ (10.47)</u>	<u>\$ (14.84) ⁽¹⁾</u>

⁽¹⁾ Retroactively adjusted for the effects of the Reverse Stock Split (see [Note 1](#) — Organization to our consolidated financial statements in this Quarterly Report on Form 10-Q for more information).

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

AMERICAN STRATEGIC INVESTMENT CO.

CONSOLIDATED STATEMENTS OF CHANGES IN EQUITY
(In thousands, except for share data)
(Unaudited)

Six Months Ended June 30, 2023

	Class A Common Stock							
	Number of Shares	Par Value	Additional Paid-in Capital	Accumulated Other Comprehensive Loss	Distributions in excess of accumulated earnings	Total Stockholders' Equity	Non- controlling Interests	Total Equity
Balance, December 31, 2022	1,886,298	\$ 19	\$ 698,761	\$ 1,637	\$ (399,355)	\$ 301,062	\$ 20,514	\$ 321,576
Common stock issued related to Rights Offering	386,100	4	4,055	—	—	4,059	—	4,059
Common stock issued to the Advisor in connection with management fees (see Note 7)	31,407	—	485	—	—	485	—	485
Redemption of fractional shares of common stock	(1,948)	—	(24)	—	—	(24)	—	(24)
Equity-based compensation	2,054	—	320	—	—	320	4,184	4,504
Common stock shares withheld upon vesting of restricted stock	(961)	—	(10)	—	—	(10)	—	(10)
Net loss	—	—	—	—	(22,657)	(22,657)	—	(22,657)
Other comprehensive income	—	—	—	(434)	—	(434)	—	(434)
Balance, June 30, 2023	<u>2,302,950</u>	<u>\$ 23</u>	<u>\$ 703,587</u>	<u>\$ 1,203</u>	<u>\$ (422,012)</u>	<u>\$ 282,801</u>	<u>\$ 24,698</u>	<u>\$ 307,499</u>

Three Months Ended June 30, 2023

	Class A Common Stock							
	Number of Shares	Par Value	Additional Paid-in Capital ⁽¹⁾	Accumulated Other Comprehensive Loss	Distributions in excess of accumulated earnings	Total Stockholders' Equity	Non- controlling Interests	Total Equity
Balance, March 31, 2023	2,303,895	\$ 23	\$ 703,385	\$ 1,255	\$ (411,113)	\$ 293,550	\$ 22,606	\$ 316,156
Equity-based compensation	16	—	212	—	—	212	2,092	2,304
Common stock shares withheld upon vesting of restricted stock	(961)	—	(10)	—	—	(10)	—	(10)
Net loss	—	—	—	—	(10,899)	(10,899)	—	(10,899)
Other comprehensive income	—	—	—	(52)	—	(52)	—	(52)
Balance, June 30, 2023	<u>2,302,950</u>	<u>\$ 23</u>	<u>\$ 703,587</u>	<u>\$ 1,203</u>	<u>\$ (422,012)</u>	<u>\$ 282,801</u>	<u>\$ 24,698</u>	<u>\$ 307,499</u>

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

AMERICAN STRATEGIC INVESTMENT CO.

CONSOLIDATED STATEMENTS OF CHANGES IN EQUITY
(In thousands, except for share data)
(Unaudited)

Six Months Ended June 30, 2022

	Common Stock			Accumulated Other Comprehensive Loss	Distributions in excess of accumulated earnings	Total Stockholders' Equity	Non-controlling Interests	Total Equity
	Number of Shares ⁽¹⁾	Par Value ⁽¹⁾	Additional Paid-in Capital ⁽¹⁾					
Balance, December 31, 2021	1,659,717	\$ 17	\$ 691,234	\$ (1,553)	\$ (350,709)	\$ 338,989	\$ 12,147	\$ 351,136
Common stock issued to the Advisor in connection with management fees (see Note 7)	26,913	—	2,321	—	—	2,321	—	2,321
Equity-based compensation	16,963	—	138	—	—	138	4,183	4,321
Common stock issued to directors in lieu of cash for board fees	1,255	—	121	—	—	121	—	121
Dividends declared on common stock, \$ 0.20 per share	—	—	—	—	(2,670)	(2,670)	—	(2,670)
Distributions paid to non-controlling interest holders	—	—	—	—	(80)	(80)	—	(80)
Net loss	—	—	—	—	(24,713)	(24,713)	—	(24,713)
Other comprehensive income	—	—	—	2,372	—	2,372	—	2,372
Balance, June 30, 2022	<u>1,704,848</u>	<u>\$ 17</u>	<u>\$ 693,814</u>	<u>\$ 819</u>	<u>\$ (378,172)</u>	<u>\$ 316,478</u>	<u>\$ 16,330</u>	<u>\$ 332,808</u>

⁽¹⁾ Retroactively adjusted for the effects of the Reverse Stock Split (see [Note 1](#)).

Three Months Ended June 30, 2022

	Common Stock			Accumulated Other Comprehensive Loss	Distributions in excess of accumulated earnings	Total Stockholders' Equity	Non-controlling Interests	Total Equity
	Number of Shares ⁽¹⁾	Par Value ⁽¹⁾	Additional Paid-in Capital ⁽¹⁾					
Balance, March 31, 2022	1,671,476	\$ 17	\$ 692,329	\$ 197	\$ (363,790)	\$ 328,753	\$ 14,239	\$ 342,992
Common stock issued to the Advisor in connection with management fees (see Note 7)	15,803	—	1,313	—	—	1,313	—	1,313
Equity-based compensation	16,963	—	110	—	—	110	2,091	2,201
Common stock issued to directors in lieu of cash for board fees	606	—	62	—	—	62	—	62
Dividends declared on common stock, \$ 0.10 per share	—	—	—	—	(1,341)	(1,341)	—	(1,341)
Distributions paid to non-controlling interest holders	—	—	—	—	(40)	(40)	—	(40)
Net loss	—	—	—	—	(13,001)	(13,001)	—	(13,001)
Other comprehensive income	—	—	—	622	—	622	—	622
Balance, June 30, 2022	<u>1,704,848</u>	<u>\$ 17</u>	<u>\$ 693,814</u>	<u>\$ 819</u>	<u>\$ (378,172)</u>	<u>\$ 316,478</u>	<u>\$ 16,330</u>	<u>\$ 332,808</u>

⁽¹⁾ Retroactively adjusted for the effects of the Reverse Stock Split (see [Note 1](#)).

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

AMERICAN STRATEGIC INVESTMENT CO.

CONSOLIDATED STATEMENTS OF CASH FLOWS
(In thousands)
(Unaudited)

	Six Months Ended June 30,	
	2023	2022
Cash flows from operating activities:		
Net loss	\$ (22,657)	\$ (24,713)
Adjustments to reconcile net loss to net cash provided by (used in) operating activities:		
Depreciation and amortization	13,701	14,022
Amortization of deferred financing costs	771	771
Accretion of below- and amortization of above-market lease liabilities and assets, net	(9)	(101)
Equity-based compensation	4,504	4,321
Management fees paid/reinvested in common stock by the Advisor	485	2,321
Impairments of real estate investments	151	—
Changes in assets and liabilities:		
Straight-line rent receivable	(84)	(2,233)
Straight-line rent payable	54	54
Prepaid expenses, other assets and deferred costs	(471)	(499)
Accounts payable, accrued expenses and other liabilities	(246)	9,197
Deferred revenue	(376)	(1,403)
Net cash provided by (used in) operating activities	(4,177)	1,737
Cash flows from investing activities:		
Capital expenditures	(2,801)	(1,374)
Net cash used in investing activities	(2,801)	(1,374)
Cash flows from financing activities:		
Payments on mortgage note payable	—	(5,500)
Proceeds from Rights Offering, net (see Note 7)	4,059	—
Dividends paid on common stock	—	(2,670)
Redemption of fractional shares of common stock and restricted shares	(24)	—
Distributions to non-controlling interest holders	—	(80)
Common stock shares withheld upon vesting of restricted shares	(10)	—
Net cash provided by (used in) financing activities	4,025	(8,250)
Net change in cash, cash equivalents and restricted cash	(2,953)	(7,887)
Cash, cash equivalents and restricted cash, beginning of period	16,117	28,428
Cash, cash equivalents and restricted cash, end of period	\$ 13,164	\$ 20,541
Cash and cash equivalents	\$ 7,052	\$ 8,097
Restricted cash	6,112	12,444
Cash, cash equivalents and restricted cash, end of period	\$ 13,164	\$ 20,541
Supplemental Disclosures:		
Non-Cash Investing and Financing Activities:		
Common stock issued to directors in lieu of cash for board fees	\$ —	\$ 121
Net change in accrued capital expenditures for the period	496	685
Common stock issued to the Advisor in connection with management fees (see Note 7)	485	2,321

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

AMERICAN STRATEGIC INVESTMENT CO.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

June 30, 2023

(Unaudited)

Note 1 — Organization

American Strategic Investment Co. (including, New York City Operating Partnership L.P., (the “OP”) and its subsidiaries, the “Company”) is an externally managed company that currently owns a portfolio of commercial real estate located within the five boroughs of New York City, primarily Manhattan. The Company's real estate assets consist of office properties and certain real estate assets that accompany office properties, including retail spaces and amenities. At the Company's 1140 Avenue of the Americas property, during the third quarter of 2021, the Company also began operating Innovate NYC, a co-working company that is specific to this property only, that offers move-in ready private offices, virtual offices, and meeting space on bespoke terms to clients. As of June 30, 2023, the Company owned eight properties consisting of 1.2 million rentable square feet, acquired for an aggregate purchase price of \$ 790.7 million.

On December 30, 2022, the Company announced that it was changing its business strategy by expanding the scope of the assets and businesses it may own and operate. The Company may now seek to acquire assets such as hotels, expand its co-working office space business and seek to invest in and operate businesses such as hotel or parking lot management companies. By investing in other asset types, the Company may generate income that does not otherwise constitute income that qualifies for purposes of qualifying as a real estate investment trust for United States (“U.S.”) federal income tax purposes (“REIT”). Excluding hotels, these additional assets do not generate REIT-qualifying income and are operating businesses. As a result, on January 9, 2023, the Company's board of directors authorized termination of the Company's REIT election which became effective on January 1, 2023. Historically, the Company filed an election to be taxed as a REIT commencing with its taxable year ended December 31, 2014, which remained in effect with respect to each taxable year ending on or before December 31, 2022.

As a consequence of the Company's decision to terminate its election to be taxed as a REIT, the ownership limitations set forth in Section 5.7 of its charter, including, without limitation, the “Aggregate Share Ownership Limit,” as defined therein, no longer apply. The Company filed with the State Department of Assessments and Taxation of Maryland a Certificate of Notice reflecting the board's determination that it is no longer in its best interest to continue to qualify as a REIT and that therefore the Aggregate Share Ownership Limit will no longer be in effect.

On January 11, 2023 the Company effected a 1-for-8 reverse stock split that was previously approved by the Company's board of directors, resulting in each outstanding share of Class A common stock being converted into 0.125 shares of common stock, with no fractional shares being issued (the “Reverse Stock Split”). All references made to share or per share amounts in the accompanying consolidated financial statements and applicable disclosures have been retroactively adjusted to reflect the Reverse Stock Split.

Also, effective January 19, 2023, the Company amended its charter to change its name to “American Strategic Investment Co.” from “New York City REIT, Inc.” Trading of the Company's Class A common stock on the New York Stock Exchange under the new name began on January 20, 2023 under the existing trading symbol “NYC.” Shares of the Company's Class A common stock were first listed on the New York Stock Exchange (“NYSE”) on August 18, 2020. Also, on February 22, 2023, the Company completed a non-transferable rights offering raising gross proceeds of \$ 5.0 million. As a result, the Company issued 386,100 shares of its Class A common stock subscribed for in the Rights Offering on February 27, 2023.

Substantially all of the Company's business is conducted through the OP and its wholly-owned subsidiaries. The Company's advisor, New York City Advisors, LLC (the “Advisor”), manages the Company's day-to-day business with the assistance of the Company's property manager, New York City Properties, LLC (the “Property Manager”). The Advisor and Property Manager are under common control with AR Global Investments, LLC (“AR Global”) and these related parties receive compensation and fees for providing services to the Company. The Company also reimburses these entities for certain expenses they incur in providing these services. Please see [Note 9 — Related Party Transactions and Arrangements](#) for additional information on the Company's Advisor and affiliates of the Advisor, including ownership percentages.

AMERICAN STRATEGIC INVESTMENT CO.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

June 30, 2023
(Unaudited)

Note 2 — Summary of Significant Accounting Policies***Basis of Accounting***

The accompanying consolidated financial statements of the Company included herein were prepared in accordance with accounting principles generally accepted in the United States of America ("GAAP") for interim financial information and with the instructions to this Quarterly Report on Form 10-Q and Article 10 of Regulation S-X. Accordingly, they do not include all of the information and footnotes required by GAAP for complete financial statements. The information furnished includes all adjustments and accruals of a normal recurring nature, which, in the opinion of management, are necessary for a fair statement of results for the interim periods. The results of operations for the three and six months ended June 30, 2023 and 2022, respectively, are not necessarily indicative of the results for the entire year or any subsequent interim period.

These consolidated financial statements should be read in conjunction with the audited consolidated financial statements and notes thereto as of and for the year ended December 31, 2022, which are included in the Company's Annual Report on Form 10-K filed with the Securities and Exchange Commission (the "SEC") on March 16, 2023. Except for those required by new accounting pronouncements discussed below, there have been no significant changes to the Company's significant accounting policies during the six months ended June 30, 2023.

Principles of Consolidation

The consolidated financial statements include the accounts of the Company, the OP and its subsidiaries. All inter-company accounts and transactions are eliminated in consolidation. In determining whether the Company has a controlling financial interest in a joint venture and the requirement to consolidate the accounts of that entity, management considers factors such as ownership interest, authority to make decisions and contractual and substantive participating rights of the other partners or members as well as whether the entity is a variable interest entity ("VIE") for which the Company is the primary beneficiary. Substantially all of the Company's assets and liabilities are held by the OP. The Company has determined the OP is a VIE of which the Company is the primary beneficiary.

Use of Estimates

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates. Management makes significant estimates regarding revenue recognition, purchase price allocations to record investments in real estate, and fair value measurements, as applicable.

Non-controlling Interests

The non-controlling interests represent the portion of the equity in the OP that is not owned by the Company. Under the multi-year outperformance agreement with the Advisor (the "2020 OPP"), the OP issued a class of units of limited partnership ("LTIP Units") during 2020, which are reflected as part of non-controlling interest as of June 30, 2023 and December 31, 2022 (see [Note 7](#) - *Stockholders' Equity* and [Note 11](#) - *Equity-Based Compensation* for additional information).

Impacts of the COVID-19 Pandemic

The preparation of consolidated financial statements in conformity with GAAP requires the Company to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities as of the date of the consolidated financial statements and the reported amounts of revenues and expenses during the reporting period. During the first quarter of 2020, the global COVID-19 pandemic commenced. The impact of the COVID-19 pandemic evolved rapidly and resulted in a decrease in economic activity. One of the hardest hit locations, New York City, is where all of the Company's properties are located.

AMERICAN STRATEGIC INVESTMENT CO.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

June 30, 2023

(Unaudited)

The negative effects of the global pandemic did impact the ability of some of the Company's tenants to pay their monthly rent during 2020 and 2021, which in some cases led to breaches of certain debt covenants, some of which are still in effect (see below). However, with the exception of one minor lease deferral during the third quarter of 2022, which was unrelated to the impact of COVID-19, the trend of tenants not paying monthly rent did not continue during 2022 or in the first two quarters of the year ending December 31, 2023. The Company took a proactive approach to achieve mutually agreeable solutions with some of its tenants and in some cases, during 2020 and 2021, the Company executed different types of lease amendments with multiple tenants which included deferrals, abatements, extensions to the term of the leases, and in one instance, a reduction of the lease term and the Company continues to modify leases as opportunities arise. During the quarter ended June 30, 2023 we had three tenant leases naturally expire and one tenant elect an early termination for October of 2023, which were unrelated to the impact of COVID-19, and four new leases that commenced.

As a result of the financial difficulties of some of the Company's tenants during 2020 and 2021, as described above, the Company has had breaches of debt covenants on mortgages secured by its 9 Times Square, 1140 Avenue of Americas, Laurel/Riverside and 8713 Fifth Avenue properties under the non-recourse mortgages for those properties. These breaches caused cash trap events, where operating cash flow from the property after debt service was held in restricted cash as additional collateral for the loan, that continued through the quarter ended June 30, 2023 (except for the 9 Times Square and Laurel/Riverside properties), but were not events of default. Currently, the Company is no longer in breach of the covenants for the Laurel/Riverside property or for its 9 Times Square property. The Company remains in breach of the 1140 Avenue of the Americas and 8713 Fifth Avenue loans as of June 30, 2023. See [Note 4](#) — *Mortgage Notes Payable, Net* for further details regarding the current status, as of June 30, 2023, of the debt covenants under the mortgages secured by these properties.

For accounting purposes, in accordance with ASC 842: Leases, normally a company would be required to assess a lease modification to determine if the lease modification should be treated as a separate lease and if not, modification accounting would be applied which would require a company to reassess the classification of the lease (including leases for which the prior classification under ASC 840 was retained as part of the election to apply the package of practical expedients allowed upon the adoption of ASC 842, which does not apply to leases subsequently modified). However, in light of the COVID-19 pandemic in which many leases are being modified, the Financial Accounting Standards Board ("FASB") and U.S. Securities and Exchange Commission (the "SEC") have provided relief that allows companies to make a policy election as to whether they treat COVID-19 related lease amendments as a provision included in the pre-concession arrangement, and therefore, not a lease modification, or to treat the lease amendment as a modification. In order to be considered COVID-19 related, cash flows must be substantially the same or less than those prior to the concession. For COVID-19 relief qualified changes, there are two methods to potentially account for such rent deferrals or abatements under the relief, (1) as if the changes were originally contemplated in the lease contract or (2) as if the deferred payments are variable lease payments contained in the lease contract. For all other lease changes that did not qualify for FASB relief, the Company would be required to apply modification accounting including assessing classification under ASC 842.

Some, but not all of the Company's lease modifications qualify for the FASB relief. In accordance with the relief provisions, instead of treating these qualifying leases as modifications, the Company has elected to treat the modifications as if previously contained in the lease and recast rents receivable prospectively (if necessary). Under that accounting, for modifications that were deferrals only, there would be no impact on overall rental revenue and for any abatement amounts that reduced total rent to be received, the impact would be recognized ratably over the remaining life of the lease.

For leases not qualifying for this relief, the Company applied modification accounting and determined that there were no changes in the current classification of its leases impacted by negotiations with its tenants.

Revenue Recognition

The Company's revenues, which are derived primarily from lease contracts, include rents that each tenant pays in accordance with the terms of each lease reported on a straight-line basis over the initial term of the lease. As of June 30, 2023, these leases had a weighted-average remaining lease term of 6.8 years. Because many of the Company's leases provide for rental increases at specified intervals, straight-line basis accounting requires that the Company record a receivable for, and include in revenue from tenants, unbilled rent receivables that the Company will receive if the tenant makes all rent payments required through the expiration of the initial term of the lease. When the Company acquires a property, the acquisition date is considered to be the commencement date for purposes of this calculation. For new leases after acquisition, the commencement date is considered to be the date the tenant takes control of the space. For lease modifications, the commencement date is considered to be the date the lease modification is executed. The Company defers the revenue related to lease payments received from tenants in advance of their due dates. Pursuant to certain of the Company's lease agreements, tenants are required

AMERICAN STRATEGIC INVESTMENT CO.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

June 30, 2023

(Unaudited)

to reimburse the Company for certain property operating expenses (recorded in total revenue from tenants), in addition to paying base rent, whereas under certain other lease agreements, the tenants are directly responsible for all operating costs of the respective properties. To the extent such costs exceed the applicable tenant's base year, many but not all of the Company's leases require the tenant to pay its allocable share of increases in operating expenses, which may include common area maintenance costs, real estate taxes and insurance. Under ASC 842, the Company has elected to report combined lease and non-lease components in a single line "Revenue from tenants." For expenses paid directly by the tenant, under both ASC 842 and 840, the Company has reflected them on a net basis.

The Company continually reviews receivables related to rent and unbilled rents receivable and determines collectability by taking into consideration the tenant's payment history, the financial condition of the tenant, business conditions in the industry in which the tenant operates and economic conditions in the area in which the property is located. Under the leasing standard, the Company is required to assess, based on credit risk, if it is probable that the Company will collect virtually all of the lease payments at the lease commencement date and it must continue to reassess collectability periodically thereafter based on new facts and circumstances affecting the credit risk of the tenant. In fiscal year ended December 31, 2022, 2021 and 2020, respectively, this assessment included consideration of the impacts of the COVID-19 pandemic on the Company's tenant's ability to pay rents in accordance with their contracts. Partial reserves, or the ability to assume partial recovery are no longer permitted. If the Company determines that it is probable that it will collect virtually all of the lease payments (base rent and additional rent), the lease will continue to be accounted for on an accrual basis (i.e. straight-line). However, if the Company determines it is not probable that it will collect virtually all of the lease payments, the lease will be accounted for on a cash basis and the straight-line rent receivable accrued will be written off, as well as any accounts receivable, where it was subsequently concluded that collection was not probable. Cost recoveries from tenants are included in operating revenue from tenants in accordance with current accounting rules, on the accompanying consolidated statements of operations and comprehensive loss in the period the related costs are incurred, as applicable.

In accordance with lease accounting rules the Company records uncollectible amounts as reductions in revenue from tenants. During the six months ended June 30, 2023 and 2022, the Company had no such reductions in revenue which excludes rents from tenants on a cash basis not collected.

Accounting for Leases*Lessor Accounting*

In accordance with the lease accounting standard, all leases as lessor prior to adoption were accounted for as operating leases. The Company evaluates new leases originated after the adoption date (by the Company or by a predecessor lessor/owner) pursuant to the new guidance where a lease for some or all of a building is classified by a lessor as a sales-type lease if the significant risks and rewards of ownership reside with the tenant. This situation is met if, among other things, there is an automatic transfer of title during the lease, a bargain purchase option, the non-cancelable lease term is for more than major part of remaining economic useful life of the asset (e.g., equal to or greater than 75%), the present value of the minimum lease payments represents substantially all (e.g., equal to or greater than 90%) of the leased property's fair value at lease inception, or the asset so specialized in nature that it provides no alternative use to the lessor (and therefore would not provide any future value to the lessor) after the lease term. Further, such new leases are evaluated to consider whether they would be failed sale-leaseback transactions and accounted for as financing transactions by the lessor. For the three year period ended December 31, 2022, the Company did not have any leases as a lessor that would be considered as sales-type leases or financings under sale-leaseback rules.

As a lessor of real estate, the Company has elected, by class of underlying assets, to account for lease and non-lease components (such as tenant reimbursements of property operating expenses) as a single lease component as an operating lease because (a) the non-lease components have the same timing and pattern of transfer as the associated lease component; and (b) the lease component, if accounted for separately, would be classified as an operating lease. Additionally, only incremental direct leasing costs may be capitalized under the accounting guidance. Indirect leasing costs in connection with new or extended tenant leases, if any, are being expensed.

Lessee Accounting

For lessees, the accounting standard requires the application of a dual lease classification approach, classifying leases as either operating or finance leases based on the principle of whether or not the lease is effectively a financed purchase by the lessee. Lease expense for operating leases is recognized on a straight-line basis over the term of the lease, while lease expense for finance leases is recognized based on an effective interest method over the term of the lease. Also, lessees must recognize a right-of-use asset ("ROU") and a lease liability for all leases with a term of greater than 12 months regardless of their classification. Further, certain transactions where at inception of the lease the buyer-lessor accounted for the transaction as a

AMERICAN STRATEGIC INVESTMENT CO.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

June 30, 2023

(Unaudited)

purchase of real estate and a new lease, may now be required to have symmetrical accounting to the seller-lessee if the transaction was not a qualified sale-leaseback and accounted for as a financing transaction. For additional information and disclosures related to the Company's operating leases, see [Note 8 - Commitments and Contingencies](#).

We are the lessee under a land lease which was previously classified as an operating lease prior to adoption of lease accounting and will continue to be classified as an operating lease under transition elections unless subsequently modified. This lease is reflected on the Company's consolidated balance sheets and the rent expense is reflected on a straight-line basis over the lease term.

Recently Issued Accounting Pronouncements

In March 2020, the FASB issued ASU 2020-04, *Reference Rate Reform (Topic 848)*. Topic 848 contains practical expedients for reference rate reform related activities that impact debt, leases, derivatives and other contracts. The guidance in Topic 848 is optional and may be elected over the period March 12, 2020 through June 30, 2022 as reference rate reform activities occur. During the year ended December 31, 2020, the Company elected to apply the hedge accounting expedients related to (i) the assertion that the Company's hedged forecasted transactions remain probable and (ii) the assessments of effectiveness for future LIBOR-indexed cash flows to assume that the index upon which future hedged transactions will be based matches the index on the corresponding derivatives. Application of these expedients preserves the presentation of the Company's derivatives, which will be consistent with our past presentation. The Company has adopted this guidance as of June 30, 2023.

Note 3 — Real Estate Investments

There were no real estate assets acquired or liabilities assumed during the six months ended June 30, 2023 or 2022. Also, there were no dispositions of real estate during the six months ended June 30, 2023 or 2022. However, the Company is evaluating its options for its 421 W. 54th Street - Hit Factory property, which include current discussions to potentially sell or lease the property to a third party. As no agreement has been reached, the property does not qualify to be classified as held for sale on the consolidated balance sheet as of June 30, 2023. During the quarter ended June 30, 2023, the Company recorded an impairment charge of \$0.2 million for this property as it was determined that the carrying value exceeded the Company's most recent estimate of fair market value of the property as of June 30, 2023.

Significant Tenants

As of June 30, 2023 and December 31, 2022, there were no tenants whose annualized rental income on a straight-line basis, based on leases commenced, represented greater than 10% of total annualized rental income for all portfolio properties on a straight-line basis.

AMERICAN STRATEGIC INVESTMENT CO.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

June 30, 2023

(Unaudited)

The following table discloses amounts recognized within the consolidated statements of operations and comprehensive loss related to amortization of in-place leases and other intangibles and amortization and accretion of above- and below-market lease assets and liabilities, net, for the periods presented:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2023	2022	2023	2022
In-place leases	\$ 909	\$ 1,326	\$ 2,003	\$ 2,606
Other intangibles	177	177	354	354
Total included in depreciation and amortization	<u>\$ 1,086</u>	<u>\$ 1,503</u>	<u>\$ 2,357</u>	<u>\$ 2,960</u>
Above-market lease intangibles	\$ 197	\$ 263	\$ 477	\$ 526
Below-market lease liabilities	(255)	(326)	(511)	(652)
Total included in revenue from tenants	<u>\$ (58)</u>	<u>\$ (63)</u>	<u>\$ (34)</u>	<u>\$ (126)</u>
Below-market ground lease, included in property operating expenses	<u>\$ 12</u>	<u>\$ 12</u>	<u>\$ 25</u>	<u>\$ 25</u>

The following table provides the projected amortization expense and adjustments to revenues for the next five years as of June 30, 2023:

(In thousands)	2023 (remainder)	2024	2025	2026	2027
In-place leases	\$ 1,330	\$ 2,259	\$ 1,200	\$ 632	\$ 624
Other intangibles	354	708	708	708	708
Total to be included in depreciation and amortization	<u>\$ 1,684</u>	<u>\$ 2,967</u>	<u>\$ 1,908</u>	<u>\$ 1,340</u>	<u>\$ 1,332</u>
Above-market lease assets	\$ 349	\$ 314	\$ 123	\$ 117	\$ 117
Below-market lease liabilities	(434)	(850)	(503)	(183)	(180)
Total to be included in revenue from tenants	<u>\$ (85)</u>	<u>\$ (536)</u>	<u>\$ (380)</u>	<u>\$ (66)</u>	<u>\$ (63)</u>

AMERICAN STRATEGIC INVESTMENT CO.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

June 30, 2023

(Unaudited)

Note 4 — Mortgage Notes Payable, Net

The Company's mortgage notes payable, net as of June 30, 2023 and December 31, 2022 are as follows:

Portfolio	Encumbered Properties	Outstanding Loan Amount		Effective Interest Rate	Interest Rate	Maturity
		June 30, 2023	December 31, 2022			
		(In thousands)	(In thousands)			
123 William Street ⁽¹⁾	1	\$ 140,000	\$ 140,000	4.73 %	Fixed	Mar. 2027
9 Times Square	1	49,500	49,500	3.72 %	Fixed ⁽²⁾	Apr. 2024
1140 Avenue of the Americas ⁽³⁾	1	99,000	99,000	4.17 %	Fixed	Jul. 2026
400 E. 67th Street - Laurel Condominium / 200 Riverside Boulevard - ICON Garage	2	50,000	50,000	4.58 %	Fixed	May 2028
8713 Fifth Avenue ⁽⁴⁾	1	10,000	10,000	5.04 %	Fixed	Nov. 2028
196 Orchard Street	1	51,000	51,000	3.90 %	Fixed	Aug. 2029
Mortgage notes payable, gross	7	399,500	399,500	4.35 %		
Less: deferred financing costs, net ⁽⁵⁾		(4,569)	(5,341)			
Mortgage notes payable, net		\$ 394,931	\$ 394,159			

⁽¹⁾ As of June 30, 2023, \$ 0.9 million was in escrow in accordance with the conditions under the loan agreement and presented as part of restricted cash on the consolidated balance sheet. The restricted cash can be used to fund leasing activity, tenant improvements and leasing commissions related to this property.

⁽²⁾ Fixed as a result of the Company having entered into a "pay-fixed" interest rate swap agreement, which is included in derivatives, at fair value on the consolidated balance sheet as of June 30, 2023 (see [Note 6 — Derivatives and Hedging Activities](#) for additional information).

⁽³⁾ Due to covenant breaches resulting in cash trap for this property, all cash generated from operating this property is being held in a segregated account, and the Company will not have access to the excess cash flows until the covenant breaches are cleared. As of June 30, 2023 and December 31, 2022, there was \$ 2.3 million and \$ 3.6 million, respectively, held in a cash management account, which is part of the Company's restricted cash on its consolidated balance sheet. See "Debt Covenants" section below for additional details.

⁽⁴⁾ Due to covenant breaches resulting in cash trap for this property, all cash generated from operating this property, if any, is required to be held segregated account, and the Company will not have access to the excess cash flows until the covenant breaches are cleared. As of June 30, 2023 and December 31, 2022, no cash was trapped related to this property. The Company signed a lease with a new tenant at this property in November 2021, and the tenant began occupying a portion of the leased space in the quarter ended March 31, 2023 and is expected to occupy the remainder of the space in the fourth quarter ending December 31, 2023, which will bring the occupancy to 100.0 %.

⁽⁵⁾ Deferred financing costs represent commitment fees, legal fees, and other costs associated with obtaining commitments for financing. These costs are amortized to interest expense over the terms of the respective financing agreements using the effective interest method. Unamortized deferred financing costs are expensed when the associated debt is refinanced or repaid before maturity. Costs incurred in seeking financial transactions that do not close are expensed in the period in which it is determined that the financing will not close.

Collateral and Principal Payments

Real estate assets and intangible assets of \$ 818.5 million, at cost (net of below-market lease liabilities), as of June 30, 2023 have been pledged as collateral to the Company's mortgage notes payable and are not available to satisfy the Company's other obligations unless first satisfying the mortgage note payable on the property. The Company is required to make payments of interest on its mortgage notes payable on a monthly basis.

AMERICAN STRATEGIC INVESTMENT CO.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

June 30, 2023
(Unaudited)

The following table summarizes the scheduled aggregate principal payments subsequent to June 30, 2023:

(In thousands)	Future Minimum Principal Payments
2023 (remainder)	\$ —
2024	49,500
2025	—
2026	99,000
2027	140,000
Thereafter	111,000
Total	\$ 399,500

Debt Covenants

1140 Avenue of the Americas

The Company has breached both a debt service coverage provision and a reserve fund provision under its non-recourse mortgage secured by the 1140 Avenue of the Americas property in each of the last 12 quarters ended June 30, 2023. The principal amount of the loan was \$ 99.0 million as of June 30, 2023. These breaches are not events of default, rather they require excess cash, if any, generated at the property (after paying operating costs, debt service and capital/tenant replacement reserves) to be held in a segregated account as additional collateral under the loan. The covenants for this loan may be cured if the Company satisfies the required debt service coverage ratio for two consecutive quarters, whereupon the additional collateral will be released. The Company can remain subject to this reserve requirement through maturity of the loan without further penalty or ramifications. As of June 30, 2023 and December 31, 2022 the Company had \$ 2.3 million and \$ 3.6 million, respectively, in cash that is retained by the lender and maintained in restricted cash on the Company's consolidated balance sheet as of those dates.

8713 Fifth Avenue

The Company breached a debt service coverage ratio covenant under the non-recourse mortgage secured by 8713 Fifth Avenue in each of the last 12 quarters ended June 30, 2023. The principal amount for the loan was \$ 10.0 million as of June 30, 2023. The breach of this covenant did not result in an event of default but rather triggered an excess cash flow sweep period. The Company has the ability to avoid the excess cash flow sweep period by electing to fund a reserve in the amount of \$ 125,000 of additional collateral in cash or as a letter of credit. As of the date of filing this Quarterly Report on Form 10-Q, the Company had not yet determined whether it will do so. If the Company does not elect to continue to fund the \$ 125,000 additional collateral in a subsequent quarter, then the excess flow sweep period would commence in such quarter and continue until the covenant breaches are cured in accordance with the terms of the loan agreement. Additionally, in the event that the debt service coverage ratio covenant remains in breach at or below the current level for two consecutive calendar quarters and the lender reasonably determines that such breach is due to the property not being prudently managed by the current manager, the lender has the right, but not the obligation, to require that the Company replace the current manager with a third party manager chosen by the Company. This property did not generate any excess cash since the breach occurred and thus no cash has ever been trapped related to this property. The Company signed a lease with a new tenant at this property in November 2021, and the tenant began occupying a portion of the leased space in the quarter ended March 31, 2023 and is expected to occupy the remainder of the space in the fourth quarter of the year ending December 31, 2023, which will bring the occupancy to 100.0 %

Other Debt Covenants

The Company was in compliance with the remaining covenants under its other mortgage notes payable as of June 30, 2023, and, it continues to monitor compliance with those provisions. If the Company experiences additional lease terminations, due to tenant bankruptcies or otherwise, or tenants placed on a cash basis continue to not pay rent, it is possible that certain of the covenants on other loans may be breached and the Company may also become restricted from accessing excess cash flows from those properties. Similar to the loans discussed above, the Company's other mortgages also contain cash management provisions that are not considered events of default, and as such, acceleration of principal would only occur upon an event of default.

AMERICAN STRATEGIC INVESTMENT CO.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

June 30, 2023

(Unaudited)

LIBOR Transition

The Company had a mortgage loan agreement and a related derivative agreement for a “pay-fixed” interest swap that had terms that were previously based on LIBOR. However, in March of 2022, effective with the 9 Times Square loan modification and the termination and replacement of the “pay-fixed” swaps, both the mortgage loan agreement and the current “pay-fixed” interest swaps are now based on SOFR.

Note 5 — Fair Value of Financial Instruments

The Company determines fair value based on quoted prices when available or through the use of alternative approaches, such as discounting the expected cash flows using market interest rates commensurate with the credit quality and duration of the instrument. This alternative approach also reflects the contractual terms of the instrument, as applicable, including the period to maturity, and may use observable market-based inputs, including interest rate curves and implied volatilities, and unobservable inputs, such as expected volatility. The guidance defines three levels of inputs that may be used to measure fair value:

- Level 1* — Quoted prices in active markets for identical assets and liabilities that the reporting entity has the ability to access at the measurement date.
- Level 2* — Inputs other than quoted prices included within Level 1 that are observable for the asset and liability or can be corroborated with observable market data for substantially the entire contractual term of the asset or liability.
- Level 3* — Unobservable inputs that reflect the entity's own assumptions that market participants would use in the pricing of the asset or liability and are consequently not based on market activity, but rather through particular valuation techniques.

The determination of where an asset or liability falls in the hierarchy requires significant judgment and considers factors specific to the asset or liability. In instances where the determination of the fair value measurement is based on inputs from different levels of the fair value hierarchy, the level in the fair value hierarchy within which the entire fair value measurement falls is based on the lowest level input that is significant to the fair value measurement in its entirety.

Financial Instruments Measured at Fair Value on a Recurring Basis*Derivative Instruments*

The Company's derivative instruments are measured at fair value on a recurring basis. Although the Company has determined that the majority of the inputs used to value its derivatives fall within Level 2 of the fair value hierarchy, the credit valuation adjustments associated with this derivative utilize Level 3 inputs, such as estimates of current credit spreads to evaluate the likelihood of default by the Company and its counterparty. However, as of June 30, 2023, the Company has assessed the significance of the impact of the credit valuation adjustments on the overall valuation of its derivative positions and has determined that the credit valuation adjustments are not significant to the overall valuation of the Company's derivatives. As a result, the Company has determined that its derivatives valuation in its entirety is classified in Level 2 of the fair value hierarchy.

The valuation of derivative instruments is determined using a discounted cash flow analysis on the expected cash flows of each derivative. This analysis reflects the contractual terms of the derivatives, including the period to maturity, as well as observable market-based inputs, including interest rate curves and implied volatilities. In addition, credit valuation adjustments are incorporated into the fair values to account for the Company's potential nonperformance risk and the performance risk of the counterparties.

AMERICAN STRATEGIC INVESTMENT CO.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

**June 30, 2023
(Unaudited)**

<i>(In thousands)</i>	Quoted Prices in Active Markets Level 1	Significant Other Observable Inputs Level 2	Significant Unobservable Inputs Level 3	Total
June 30, 2023				
Interest rate "Pay - Fixed" swaps - assets	\$ —	\$ 1,184	\$ —	\$ 1,184
Total	\$ —	\$ 1,184	\$ —	\$ 1,184
December 31, 2022				
Interest rate "Pay - Fixed" swaps - assets	\$ —	\$ 1,607	\$ —	\$ 1,607
Total	\$ —	\$ 1,607	\$ —	\$ 1,607

Financial Instruments That Are Not Reported at Fair Value

The Company is required to disclose at least annually the fair value of financial instruments for which it is practicable to estimate the value. The fair value of short-term financial instruments such as cash and cash equivalents, restricted cash, prepaid expenses and other assets, accounts payable and distributions payable approximates their carrying value on the consolidated balance sheets due to their short-term nature.

The fair values of the Company's financial instruments that are not reported at fair value on the consolidated balance sheet are reported below:

<i>(In thousands)</i>	Level	June 30, 2023		December 31, 2022	
		Gross Principal Balance	Fair Value	Gross Principal Balance	Fair Value
Mortgage note payable — 9 Times Square	3	\$ 49,500	\$ 48,478	\$ 49,500	\$ 48,282
Mortgage note payable — 1140 Avenue of the Americas	3	99,000	87,514	99,000	89,015
Mortgage note payable — 123 William Street	3	140,000	123,823	140,000	126,814
Mortgage note payable — 400 E. 67th Street - Laurel Condominium / 200 Riverside Boulevard - ICON Garage	3	50,000	42,741	50,000	44,023
Mortgage note payable — 8713 Fifth Avenue	3	10,000	8,642	10,000	8,933
Mortgage note payable — 196 Orchard Street	3	51,000	43,095	51,000	42,349
Total		\$ 399,500	\$ 354,293	\$ 399,500	\$ 359,416

Note 6 — Derivatives and Hedging Activities

Risk Management Objective of Using Derivatives

The Company currently uses derivative financial instruments, including an interest rate swap, and may in the future use others, including options, floors and other interest rate derivative contracts, to hedge all or a portion of the interest rate risk associated with its borrowings. The principal objective of such arrangements is to minimize the risks and costs associated with the Company's operating and financial structure as well as to hedge specific anticipated transactions. The Company does not intend to utilize derivatives for speculative or other purposes other than interest rate risk management. The use of derivative financial instruments carries certain risks, including the risk that the counterparties to these contractual arrangements are not able to perform under the agreements. To mitigate this risk, the Company endeavors to only enter into derivative financial instruments with counterparties with high credit ratings and with major financial institutions with which the Company and its affiliates may also have other financial relationships. The Company does not anticipate that any of the counterparties will fail to meet their obligations.

The table below presents the fair value of the Company's derivative financial instruments as well as their classification on the Company's consolidated balance sheets as of June 30, 2023 and December 31, 2022.

AMERICAN STRATEGIC INVESTMENT CO.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

June 30, 2023

(Unaudited)

<i>(In thousands)</i>	Balance Sheet Location	June 30, 2023	December 31, 2022
Derivatives designated as hedging instruments:			
Interest Rate "Pay-fixed" Swap	Derivative asset (liability), at fair value	\$ 1,184	\$ 1,607

Cash Flow Hedges of Interest Rate Risk

The Company's objectives in using interest rate derivatives are to add stability to interest expense and to manage its exposure to interest rate movements. To accomplish this objective, the Company primarily uses interest rate swaps and collars as part of its interest rate risk management strategy. Interest rate swaps designated as cash flow hedges involve the receipt of variable-rate amounts from a counterparty in exchange for the Company making fixed-rate payments over the life of the agreements without exchange of the underlying notional amount. Interest rate collars designated as cash flow hedges involve the receipt of variable-rate amounts if interest rates rise above the cap strike rate on the contract and payments of variable-rate amounts if interest rates fall below the floor strike rate on the contract.

The changes in the fair value of derivatives designated and that qualify as cash flow hedges are recorded in accumulated other comprehensive income and are subsequently reclassified into earnings in the period that the hedged forecasted transaction affects earnings. During the six months ended June 30, 2023 and year ended December 31, 2022, such derivatives were used to hedge the variable cash flows associated with variable-rate debt. In connection with the modification and partial pay down of the Company's mortgage loan on its 9 Times Square property in March 2022, the Company terminated its existing \$ 55.0 million notional, LIBOR based "pay-fixed" interest rate swap and replaced it with a new \$ 49.5 million notional, SOFR based "pay-fixed" interest rate swap. In connection with this termination/replacement of the swap derivatives, the Company reflected as a charge (associated with the reduced notional amount) of approximately \$ 38,338 in Other Income (Expense) on the Company's Statement of Operations for the six month period ended June 30, 2022. At the time of the modification a net carrying amount reflecting the amount paid and the off market value rolled into the new swap and remained in Accumulated Other Comprehensive Income ("AOCI"). The amount will be amortized into interest expense over the term of the hedged item. There was \$ 18,281 of unamortized balance left as of June 30, 2023.

Amounts reported in accumulated other comprehensive income (loss) related to derivatives will be reclassified to interest expense as interest payments are made on the Company's variable-rate debt. During the next 12 months, the Company estimates that \$ 1.2 million will be reclassified from other comprehensive income (loss) as a decrease to interest expense.

As of June 30, 2023 and December 31, 2022, the Company had the following derivatives that were designated as cash flow hedges of interest rate risk.

Interest Rate Derivative	June 30, 2023		December 31, 2022	
	Number of Instruments	Notional Amount	Number of Instruments	Notional Amount
		<i>(In thousands)</i>		<i>(In thousands)</i>
Interest Rate "Pay-fixed" Swap	1	\$ 49,500	1	\$ 49,500

AMERICAN STRATEGIC INVESTMENT CO.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

June 30, 2023

(Unaudited)

The table below details the location in the financial statements of the gain or loss recognized on interest rate derivatives designated as cash flow hedges for the periods indicated.

(In thousands)	Three Months Ended June 30,		Six Months Ended June 30,	
	2023	2022	2023	2022
Amount of gain recognized in accumulated other comprehensive loss on interest rate derivatives (effective portion)	\$ 318	\$ 454	\$ 243	\$ 1,878
Amount of gain (loss) reclassified from accumulated other comprehensive income (loss) into income as interest expense	\$ 370	\$ (168)	\$ 678	\$ (494)
Total interest expense recorded in consolidated statements of operations and comprehensive loss	\$ 4,707	\$ 4,703	\$ 9,370	\$ 9,418

Offsetting Derivatives

The table below presents a gross presentation, the effects of offsetting, and a net presentation of the Company's derivatives as of June 30, 2023 and December 31, 2022. The net amounts of derivative assets or liabilities can be reconciled to the tabular disclosure of fair value. The tabular disclosure of fair value provides the location that derivative assets and liabilities are presented on the Balance Sheet.

(In thousands)	Gross Amounts of Recognized Assets		Gross Amounts of Recognized (Liabilities)	Gross Amounts Offset on the Balance Sheet	Gross Amounts Not Offset on the Balance Sheet			Net Amount
					Net Amounts of Assets (Liabilities) Presented on the Balance Sheet	Financial Instruments	Cash Collateral Received (Posted)	
June 30, 2023	\$ 1,184	\$ —	\$ —	\$ —	\$ 1,184	\$ —	\$ —	1,184
December 31, 2022	\$ 1,607	\$ —	\$ —	\$ —	\$ 1,607	\$ —	\$ —	1,607

Credit-risk-related Contingent Features

The Company has agreements with its derivative counterparty that contain a provision where if the Company either defaults or is capable of being declared in default on any of its indebtedness, then the Company could also be declared in default on its derivative obligations.

As of June 30, 2023, the Company's did not have any derivatives with a fair value in a net liability position including accrued interest but excluding any adjustment for nonperformance risk. As of June 30, 2023, the Company did not post any collateral related to these agreements and was not in breach of any agreement provisions.

Note 7 — Stockholders' Equity

As of June 30, 2023 and December 31, 2022, the Company had 2.3 million and 1.9 million shares (adjusted for the Reverse Stock Split) of common stock outstanding, respectively, including unvested restricted shares. As of June 30, 2023, all of the Company's shares of common stock outstanding was Class A common stock, including unvested restricted shares.

Rights Offering

In February 2023, the Company raised gross proceeds of \$ 5.0 million (\$ 4.1 million of net proceeds) from its Rights Offering, which entitled holders of rights to purchase 0.20130805 of a share of its Class A common stock for every right held at a subscription price of \$ 12.95 per whole share. As a result, the Company issued 386,100 shares of its Class A common stock

AMERICAN STRATEGIC INVESTMENT CO.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

June 30, 2023

(Unaudited)

subscribed for in the Rights Offering on February 27, 2023. In connection with the Rights Offering, Bellevue and its affiliates acquired approximately 367,956 shares.

Dividends

During the three months ended March 31, 2022 and June 30, 2022, the Company paid dividends to common stockholders in the amount of \$ 0.80 per share for each quarter (adjusted for the Reverse Stock Split per quarter) of common stock per year, payable to holders of record on a single quarterly record date. On July 1, 2022, the Company announced that it suspended paying dividends and has not declared or paid dividends, beginning with the quarter ended June 30, 2022.

Class A Common Stock Issued to the Advisor - Side Letter and In Lieu of Cash for the Management Fee

In January 2023, the Advisor elected to receive shares of Class A common stock in lieu of cash in respect of its management fee for that month. The Company issued 31,407 shares of its Class A common stock (adjusted for the Reverse Stock Split) using the 10 -day average price of \$ 15.92 (adjusted for the Reverse Stock Split) which was greater than minimum price required by the NYSE rules. The Company has paid the Advisor in cash for the Advisor's management fees in subsequent months through August 2023.

In accordance with the Side Letter (as defined in [Note 9 — Related Party Transactions and Arrangements](#)), the Advisor reinvested base management fees, aggregating approximately \$ 1.0 million and \$ 1.5 million in shares of the Company's Class A common stock in the first and second quarters of 2022, respectively. As a result, the Company issued 5,672 , 5,438 , 4,848 , 5,031 and 5,924 shares (all adjusted for the Reverse Stock Split) of its Class A common stock in February, March, April, May and June 2022, respectively, in connection with the monthly base management fee earned by the Advisor.

In each of August, September, October, November and December 2022, the Advisor elected to receive shares of Class A common stock in lieu of cash in respect of its management fee. The Company issued 15,586 , 18,899 , 18,285 , 19,320 and 24,744 shares (adjusted for the Reverse Stock Split), respectively, using the 10 -day average price of \$ 32.08 , \$ 26.24 , \$ 27.36 , \$ 25.92 and \$ 20.24 per share (adjusted for the Reverse Stock Split), respectively, which was greater than the minimum price required under NYSE rules. The Advisor is not obligated to accept shares in lieu of cash for these fees and makes this election monthly.

For accounting purposes, the shares of the Company's Class A common stock issued in accordance with the Side Letter and the shares issued in lieu of cash for the management fee, as elected by the Advisor, were treated as issued using the closing price on date of issue and the related expense for the year are reflected as \$ 0.5 million for the six months ended June 30, 2023 and \$ 1.3 million and \$ 2.3 million for the three and six months ended June 30, 2022, respectively.

Class A Common Stock Issued to the Company's Independent Board of Directors

During the three months ended March 31, 2022, the Company's independent board of directors made an election to receive stock in lieu of cash for board services rendered during the fourth quarter for the year ended December 31, 2021 and accordingly, the expense was recorded in the fourth quarter of the year ended December 31, 2021. Also, during the three months ended June 30, 2022, each of the Company's independent board of directors made an election to receive stock in lieu of cash for board services rendered during the first quarter of the year ended December 31, 2022. Accordingly, the expense was recorded in the first quarter of the year ended December 31, 2022. As a result of these elections, the Company issued:

- 649 shares of its Class A common stock (adjusted for the Reverse Stock Split) to the Company's independent board of directors in the first quarter of 2022 (for services rendered in the fourth quarter of the year ended December 31, 2021), and
- 606 shares of its Class A common stock (adjusted for the Reverse Stock Split) to the Company's independent board of directors in the quarter ended June 30, 2022 (for services rendered in the quarter ended March 31, 2022).

The Company paid all directors fees in cash during the second quarter, third quarter and fourth quarter of the year ended December 31, 2022 as well as the first six months of the year ending December 31, 2023.

Equity OfferingsClass A Common Stock

On October 1, 2020, the Company entered into an Equity Distribution Agreement, pursuant to which the Company may, from time to time, offer, issue and sell to the public, through its sales agents, shares of Class A common stock having an aggregate offering price of up to \$ 250.0 million in an "at the market" equity offering program (the "Common Stock ATM Program"). The Company's ability to sell shares under its existing shelf registration statement, including under the Common

AMERICAN STRATEGIC INVESTMENT CO.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

June 30, 2023

(Unaudited)

Stock ATM Program, is limited to one third of the Company's market capitalization or "public float" unless the aggregate value of its Class A Common Stock held by non-affiliates exceeds \$ 75.0 million. Additionally, the shelf registration Statement covering sales under the Common Stock ATM Program will expire on October 1, 2023.

In August 2022, Bellevue Capital Partners, LLC, ("Bellevue"), which is an entity that controls the Advisor, expressed a desire to invest additional capital in the Company. Although no written agreement was entered into, the Company's board of directors authorized the issuance of up to 125,000 shares of the Company's Class A common stock (adjusted for the Reverse Stock Split) for these purposes. During the three months ended September 30, 2022, the Company sold 79,114 shares of Class A common stock (adjusted for the Reverse Stock Split) to Bellevue, for gross proceeds of \$ 2.0 million, before nominal commissions associated with the sale. These shares were issued to Bellevue through block trades executed under the Company's Common Stock ATM Program. Bellevue may, from time to time at its discretion, purchase additional shares of Class A common stock from the Company through additional block trades. However, there is no assurance as to the number of shares of the Company's Class A common stock, if any, that Bellevue may seek to purchase.

Stockholder Rights Plan

In May 2020, the Company announced that its board of directors had approved a stockholder rights plan, but did not take actions to declare a dividend for the plan to become effective. In August 2020, in connection with the listing of the Company's shares on the NYSE and the related bifurcation of common stock into Class A and Class B common stock, the Company entered into an amended and restated rights agreement, which amended and restated the stockholders rights plan approved in May 2020 and declared a dividend payable in August 2020, of one Class A right for and on each share of Class A common stock and one Class B right for and on each share of Class B common stock, in each case, outstanding on the close of business on August 28, 2020 to the stockholders of record on that date. Each right entitles the registered holder to purchase from the Company one one-thousandth of a share of Series A Preferred Stock, par value \$ 0.01 per share ("Series A Preferred Stock"), of the Company at a price of \$55.00 per one one-thousandth of a share of Series A Preferred Stock, represented by a right, subject to adjustment. The expiration date of these rights has subsequently been extended to August 18, 2025.

Distribution Reinvestment Plan

An amendment and restatement of the distribution reinvestment plan (the "A&R DRIP") in connection with the listing of the Company's shares on the NYSE became effective on August 28, 2020. The A&R DRIP allows stockholders who have elected to participate to have dividends paid with respect to all or a portion of their shares of Class A common stock and Class B common stock reinvested in additional shares of Class A common stock. Shares received by participants in the A&R DRIP will represent shares that are, at the election of the Company, either (i) acquired directly from the Company, which would issue new shares, at a price based on the average of the high and low sales prices of Class A common stock on the NYSE on the date of reinvestment, or (ii) acquired through open market purchases by the plan administrator at a price based on the weighted-average of the actual prices paid for all of the shares of Class A common stock purchased by the plan administrator with proceeds from reinvested dividends to participants for the related quarter, less a per share processing fee.

Shares issued by the Company pursuant to the A&R DRIP, if any, would be recorded within stockholders' equity in the consolidated balance sheets in the period dividends or other distributions are declared. During the six months ended June 30, 2023 and year ended December 31, 2022, any DRIP transactions were settled through open market transactions and no shares were issued by the Company.

Note 8 — Commitments and Contingencies**Lessee Arrangement - Ground Lease**

The Company entered into a ground lease agreement in 2016 related to the acquisition of 1140 Avenue of the Americas under a leasehold interest arrangement and recorded an ROU asset and lease liability related to this lease upon adoption of ASU 2016-02 during the year ended December 31, 2019. The ground lease is considered an operating lease. In computing the lease liabilities, the Company discounts future lease payments at an estimated incremental borrowing rate at adoption or acquisition if later. The term of the Company's ground lease is significantly longer than the term of borrowings available to the Company on a fully-collateralized basis. The Company's estimate of the incremental borrowing rate required significant judgment.

As of June 30, 2023, the Company's ground lease had a weighted-average remaining lease term of 43.5 years and a discount rate of 8.6 %. As of June 30, 2023, the Company's balance sheet includes an ROU asset and liability of \$ 54.8 million and \$ 54.7 million, respectively, which are included in operating lease right-of-use asset and operating lease liability, respectively, on the consolidated balance sheet. For the three and six months ended June 30, 2023, the Company paid cash of \$ 1.2 million and \$ 2.4 million, respectively, for amounts included in the measurement of lease liabilities and recorded expense of \$ 1.2 million and \$ 2.4 million, respectively, on a straight-line basis in accordance with the standard. For the three and six

AMERICAN STRATEGIC INVESTMENT CO.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

June 30, 2023

(Unaudited)

months ended June 30, 2022, the Company paid cash of \$ 1.2 million and \$ 2.4 million, respectively, for amounts included in the measurement of lease liabilities and recorded expense of \$ 1.2 million and \$ 2.4 million, respectively, on a straight-line basis in accordance with the standard.

The lease expense is recorded in property operating expenses in the consolidated statements of operations and comprehensive loss. The Company did not enter into any additional ground leases as lessee during the six months ended June 30, 2023 and 2022.

The following table reflects the ground lease rent payments due from the Company and a reconciliation to the net present value of those payments as of June 30, 2023:

<i>(In thousands)</i>	Future Base Rent Payments
2023 (remainder)	\$ 2,373
2024	4,746
2025	4,746
2026	4,746
2027	4,746
Thereafter	193,008
Total lease payments	214,365
Less: Effects of discounting	(159,678)
Total present value of lease payments	\$ 54,687

Litigation and Regulatory Matters

In the ordinary course of business, the Company may become subject to litigation, claims and regulatory matters. There are no material legal or regulatory proceedings pending or known to be contemplated against the Company.

Environmental Matters

In connection with the ownership and operation of real estate, the Company may potentially be liable for costs and damages related to environmental matters. As of June 30, 2023, the Company has not been notified by any governmental authority of any non-compliance, liability or other claim, and is not aware of any other environmental condition that it believes will have a material adverse effect on the results of operations.

Note 9 — Related Party Transactions and Arrangements

As of June 30, 2023 and December 31, 2022, entities wholly owned by AR Global owned 290,937 and 129,671 shares (both adjusted for the Reverse Stock Split), respectively, of the Company's outstanding Class A common stock. As of June 30, 2023 and December 31, 2022, Bellevue owned approximately 35.8 % and 20 % of outstanding shares of the Company, respectively.

Fees and Participations Incurred in Connection with the Operations of the Company

Summary of Advisory Agreement

Pursuant to the advisory agreement with the Advisor (as amended from time to time, the "Advisory Agreement"), the Advisor manages the Company's day-to-day operations. The initial term of the Advisory Agreement ends in July 2030 and will automatically renew for successive five-year terms unless either party gives written notice of its election not to renew at least 180 days prior to the then-applicable expiration date. The Company may only elect not to renew the Advisory Agreement on this basis with the prior approval of at least two-thirds of the Company's independent directors, and no change of control fee (as defined in the Advisory Agreement) is payable if the Company makes this election.

AMERICAN STRATEGIC INVESTMENT CO.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

June 30, 2023

(Unaudited)

Asset Management Fees and Variable Management/Incentive Fees*Overview*

The Company pays the Advisor a base asset management fee on the first business day of each month equal to (x) \$ 0.5 million plus (y) a variable amount equal to (a) 1.25 % of the equity proceeds received after November 16, 2018, divided by (b) 12. The base asset management fee is payable in cash, shares of common stock, units of limited partnership interest in the OP, or a combination thereof, at the Advisor's election. The Advisor elected to receive shares of Class A common stock in lieu of cash for the base management fee in January 2023 (see [Note 7 — Stockholders Equity](#)). Equity proceeds are defined as, with respect to any period, cumulative net proceeds of all common and preferred equity and equity-linked securities issued by the Company and its subsidiaries during the period, including: (i) any equity issued in exchange or conversion of exchangeable notes based on the stock price at the date of issuance and convertible equity; (ii) any other issuances of equity, including but not limited to units in the OP (excluding equity-based compensation but including issuances related to an acquisition, investment, joint-venture or partnership); and (iii) effective following the time the Company commences paying a dividend of at least \$ 0.05 per share per annum to its stockholders, (which occurred in October 2020), any cumulative Core Earnings (as defined in the Advisory Agreement) in excess of cumulative distributions paid on the Company's common stock since November 16, 2018, the effective date of the most recent amendment and restatement of the Advisory Agreement.

The Advisory Agreement also entitles the Advisor to an incentive variable management fee. Currently and during the year ended December 31, 2021, the variable management fee is equal to (i) the product of (a) the diluted weighted-average outstanding shares of common stock for the calendar quarter (excluding any equity-based awards that are subject to performance metrics that are not currently achieved) multiplied by (b) 15.0 % multiplied by (c) the excess of Core Earnings Per Adjusted Share for the previous three-month period in excess of \$ 0.1458 (before any adjustment for the Reverse Stock Split), plus (ii) the product of (x) the diluted weighted-average outstanding shares of common stock for the calendar quarter (excluding any equity-based awards that are subject to performance metrics that are not currently achieved) multiplied by (y) 10.0 % multiplied by (z) the excess of Core Earnings Per Adjusted Share for the previous three-month period in excess of \$ 0.1944 (before any adjustment for the Reverse Stock Split). The variable management fee is payable quarterly in arrears in cash, shares of common stock, units of limited partnership interest in the OP or a combination thereof, at the Advisor's election. No incentive variable management fees were earned during the three months ended June 30, 2023 or 2022.

Side Letter With the Advisor

On February 4, 2022, the Company entered into a side letter (the "Side Letter") with the Advisor to the Advisory Agreement pursuant to which the Advisor agreed to, from the date of the Side Letter until August 4, 2022, immediately invest all fees received by the Advisor under Section 10(c)(i)-(ii) of the Advisory Agreement in shares of the Company's Class A common stock, par value \$ 0.01 per share (the "Shares"), in an amount aggregating no more than \$ 3.0 million. The price of the Shares was determined, at each issuance, in accordance with Section 10(c)(iii) of the Advisory Agreement and was not less than the "Minimum Price" as defined in Section 312.04(h) of the New York Stock Exchange Listed Company Manual (the "Listed Company Manual"), which minimum price was \$ 10.55 per share. The Advisor was paid base management fees, aggregating approximately \$ 1.0 million and \$ 1.5 million in cash and reinvested these fees in shares of the Company's Class A common stock in the first and second quarters of the year ended December 31, 2022, respectively (see [Note 7 — Stockholders Equity](#) for more information).

Management Fee Expense

The Company recorded expense of \$ 1.5 million and \$ 3.0 million for base asset management fees during the three and six months ended June 30, 2023 and \$ 1.3 million and \$ 2.8 million during the three and six months ended June 30, 2022. There were no variable management fees incurred in either of these periods. The management fees for the quarter ended March 31, 2023 and the first and second quarters of 2022 were paid partially with cash. The Advisor may elect to but is not obligated to accept shares in lieu of cash for these management fees and makes this election on a monthly basis. The management fees for both periods were paid as follows:

- The Company paid cash base management fees of \$ 1.5 million (for April, May and June 2023) in the three months ended June 30, 2023 and it paid \$ 2.5 million (for February through June 2023) in the six months ended June 30, 2023. In addition, the Advisor elected to receive shares of Class A common stock in lieu of cash in respect of its management fee for January 2023 and as a result, the Company issued 31,407 shares of its Class A common stock (adjusted for the Reverse Stock Split) using the 10-day average price of \$ 15.92 (adjusted for the Reverse Stock Split).
- The Company paid cash base management fees of \$ 0.5 million (for January 2022) in the three months ended March 31, 2022. Also, in accordance with the Side Letter, the Advisor was paid base management fees, aggregating

AMERICAN STRATEGIC INVESTMENT CO.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

June 30, 2023

(Unaudited)

approximately \$ 1.0 million and \$ 1.5 million in cash and reinvested these fees in shares of the Company's Class A common stock in the first and second quarters of the year ended December 31, 2022, respectively. As a result, the Company issued 5,672 , 5,438 4,848 , 5,031 and 5,924 shares (all adjusted for the Reverse Stock Split) of its Class A common stock in February, March, April, May and June 2022, respectively, in connection with the monthly base management fee earned by the Advisor.

- In each of August, September, October, November and December 2022, the Advisor elected to receive shares of Class A common stock in lieu of cash in respect of its management fee. The Company issued 15,586 , 18,899 , 18,285 , 19,320 and 24,744 shares (adjusted for the Reverse Stock Split), respectively. For the full year ended December 31, 2022 in connection with the monthly base management fee earned by the Advisor, an aggregate of 129,671 shares were issued (including those issued in the three months ended March 31, 2022).

For accounting purposes, the shares of the Company's Class A common stock issued in accordance with the Side Letter and the shares issued in lieu of cash for the management fee to the Advisor for January 2023, as elected by the Advisor, are treated as issued using the closing price on date of issue and the related expense totaled \$ 0.5 million for the six months ended June 30, 2023 and \$ 1.3 million and \$ 2.3 million for the three and six months ended June 30, 2022, respectively.

Property Management Fees

Pursuant to the Property Management and Leasing Agreement (the "PMA"), as most recently amended on November 16, 2018, except in certain cases where the Company contracts with a third party, the Company pays the Property Manager a property management fee equal to: (i) for non-hotel properties, 3.25 % of gross revenues from the properties managed, plus market-based leasing commissions; and (ii) for hotel properties, a market-based fee based on a percentage of gross revenues. The term of the PMA is coterminous with the term of the Advisory Agreement.

Pursuant to the PMA, the Company reimburses the Property Manager for property-level expenses. These reimbursements are not limited in amount and may include reasonable salaries, bonuses, and benefits of individuals employed by the Property Manager, except for the salaries, bonuses, and benefits of individuals who also serve as one of the Company's executive officers or as an executive officer of the Property Manager or any of its affiliates. The Property Manager may also subcontract the performance of its property management and leasing services duties to third parties and pay all or a portion of its property management fee to the third parties with whom it contracts for these services.

On April 13, 2018, in connection with the loan for its 400 E. 67th Street - Laurel Condominium and 200 Riverside Boulevard properties, the Company entered into a new property management agreement with the Property Manager (the "April 2018 PMA") to manage the properties secured by the loan. With respect to these properties, the substantive terms of the April 2018 PMA are identical to the terms of the PMA, except that the property management fee for non-hotel properties is 4.0 % of gross revenues from the properties managed, plus market-based leasing commissions. The April 2018 PMA has an initial term of one year that is automatically extended for an unlimited number of successive one-year terms at the end of each year unless any party gives 60 days' written notice to the other parties of its intention to terminate.

The Company incurred approximately \$ 0.5 million and \$ 0.9 million in property management fees during both the three and six months ended June 30, 2023, and June 30, 2022, respectively.

Professional Fees and Other Reimbursements

The Company pays directly or reimburses the Advisor monthly in arrears, for all the expenses paid or incurred by the Advisor or its affiliates in connection with the services it provides to the Company under the Advisory Agreement, subject to the following limitations:

- (i) With respect to administrative and overhead expenses of the Advisor, including administrative and overhead expenses of all employees of the Advisor or its affiliates directly or indirectly involved in the performance of services but not including their salaries, wages, and benefits, these costs may not exceed in any fiscal year,
 - (ii) \$ 0.4 million, or
 - (iii) if the Asset Cost (as defined in the Advisory Agreement) as of the last day of the fiscal quarter immediately preceding the month is equal to or greater than \$ 1.25 billion, (x) the Asset Cost as of the last day of the fiscal quarter multiplied by (y) 0.10 %.
- (i) With respect to the salaries, wages, and benefits of all employees of the Advisor or its affiliates directly or indirectly involved in the performance of services (including the Company's executive officers), these amounts must be comparable to market rates and reimbursements may not exceed, in any fiscal year,

AMERICAN STRATEGIC INVESTMENT CO.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

**June 30, 2023
(Unaudited)**

(ii) \$ 2.6 million, or

(iii) if the Asset Cost as of the last day of the fiscal year is equal to or greater than \$ 1.25 billion, (x) the Asset Cost as of the last day of the fiscal year multiplied by (y) 0.30 %.

Professional fees and other reimbursement include reimbursements to the Advisor for administrative, overhead and personnel services, which are subject to the limits noted above, as well as costs associated with directors and officers insurance which are not subject to those limits.

Professional fees and other reimbursements for the three and six months ended June 30, 2023 were \$ 1.2 million and \$ 2.5 million, respectively.

- The amount of expenses included within professional fees and other reimbursements related to administrative, overhead and personnel services provided by and reimbursed to the Advisor for the three months ended June 30, 2023 were \$ 0.8 million (\$ 0.7 million were for salaries, wages, and benefits and \$ 0.1 million related to administrative and overhead expenses). The amount of expenses included within professional fees and other reimbursements related to administrative, overhead and personnel services provided by and reimbursed to the Advisor for the six months ended June 30, 2023 were \$ 1.9 million (\$ 1.5 million were for salaries, wages, and benefits and \$ 0.4 million related to administrative and overhead expenses).

Professional fees and other reimbursements for the three and six months ended June 30, 2022 were \$ 1.2 million and \$ 2.7 million, respectively.

- The amount of expenses included within professional fees and other reimbursements related to administrative, overhead and personnel services provided by and reimbursed to the Advisor for the three months ended June 30, 2022 were \$ 0.9 million (\$ 0.7 million were for salaries, wages, and benefits and \$ 0.1 million related to administrative and overhead expenses), respectively. The amount of expenses included within professional fees and other reimbursements related to administrative, overhead and personnel services provided by and reimbursed to the Advisor for the six months ended June 30, 2022 was \$ 2.1 million (\$ 1.7 million were for salaries, wages, and benefits and \$ 0.4 million related to administrative and overhead expenses), respectively.

These amounts include reimbursements to the Advisor for administrative, overhead and personnel services, which are subject to the limits noted above, as well as costs associated with directors and officers insurance which are not subject to those limits.

Summary of Fees, Expenses and Related Payables

The following table details amounts incurred in connection with the Company's operations-related services described above as of and for the periods presented:

(In thousands)	Three Months Ended June 30,		Six Months Ended June 30,		Payable (receivable) as of	
	2023	2022	2023	2022	June 30, 2023	December 31, 2022
Ongoing fees:						
Asset and property management fees to related parties ⁽¹⁾	\$ 1,988	\$ 1,785	\$ 3,872	\$ 3,707	\$ 401	\$ 118
Professional fees and other reimbursements ⁽²⁾	1,167	1,223	2,528	2,739	—	—
Total related party operation fees and reimbursements	<u>\$ 3,155</u>	<u>\$ 3,008</u>	<u>\$ 6,400</u>	<u>\$ 6,446</u>	<u>\$ 401</u>	<u>\$ 118</u>

⁽¹⁾ During the six months ended June 30, 2023, approximately \$ 0.5 million of this expense was paid with shares of the Company's Class A common stock (see disclosed above) for shares accepted in lieu of cash. During the six months ended June 30, 2022, the Advisor was paid base management fees aggregating \$ 2.3 million in cash and reinvested these fees in shares of the Company's Class A common stock.

⁽²⁾ Amounts for the three months ended June 30, 2023 and 2022 are included in general and administrative expenses in the unaudited consolidated statements of operations and comprehensive loss.

Termination Fees Payable to the Advisor

The Advisory Agreement requires the Company to pay a termination fee to the Advisor in the event the Advisory Agreement is terminated prior to the expiration of the initial term in certain limited scenarios. The termination fee will be

AMERICAN STRATEGIC INVESTMENT CO.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

June 30, 2023

(Unaudited)

payable to the Advisor if either the Company or the Advisor exercises the right to terminate the Advisory Agreement in connection with the consummation of the first change of control (as defined in the Advisory Agreement). The termination fee is equal to

- \$ 15 million plus an amount equal to the product of
 - i. three (if the termination was effective on or prior to June 30, 2020) or four (if the termination is effective after June 30, 2020), multiplied by
 - ii. applicable Subject Fees.

The "Subject Fees" are equal to (i) the product of

- 12, multiplied by (b) the actual base management fee for the month immediately prior to the month in which the Advisory Agreement is terminated, plus
 - ii. the product of (x) four multiplied by (y) the actual variable management fee for the quarter immediately prior to the quarter in which the Advisory Agreement is terminated, *plus*,
 - iii. without duplication, the annual increase in the base management fee resulting from the cumulative net proceeds of any equity issued by the Company and its subsidiaries in respect of the fiscal quarter immediately prior to the fiscal quarter in which the Advisory Agreement is terminated.

In connection with the termination or expiration of the Advisory Agreement, the Advisor will be entitled to receive (in addition to any termination fee) all amounts then accrued and owing to the Advisor, including an amount equal to then-present fair market value of its shares of the Company's Class A common stock and interest in the OP.

Note 10 — Economic Dependency

Under various agreements, the Company has engaged or will engage the Advisor, its affiliates and entities under common control with the Advisor to provide certain services that are essential to the Company, including asset management services, supervision of the management and leasing of properties owned by the Company, asset acquisition and disposition decisions, as well as other administrative responsibilities for the Company including accounting services, transaction management services and investor relations.

As a result of these relationships, the Company is dependent upon the Advisor and its affiliates. In the event that the Advisor and its affiliates are unable to provide the Company with the respective services, the Company will be required to find alternative providers of these services.

Note 11 — Equity-Based Compensation**Equity Plans**Restricted Share Plan

Prior to the Company listing its shares on the NYSE, the Company had an employee and director incentive restricted share plan (as amended, the "RSP"). The RSP provided for the automatic grant of the number of restricted shares equal to \$ 30,000 divided by the then-current Estimated Per-Share NAV, which were made without any further approval by the Company's board of directors or the stockholders, after initial election to the board of directors and after each annual stockholder meeting, with such restricted shares vesting annually over a five-year period following the grant date in increments of 20.0 % per annum. The RSP also provided the Company with the ability to grant awards of restricted shares to the Company's board of directors, officers and employees (if the Company ever has employees), employees of the Advisor and its affiliates, employees of entities that provide services to the Company, directors of the Advisor or of entities that provide services to the Company, certain consultants to the Company and the Advisor and its affiliates or to entities that provide services to the Company.

2020 Equity Plan

Effective at the time of the listing, the Company's independent directors approved an equity plan for the Advisor (the "Advisor Plan") and an equity plan for individuals (the "Individual Plan" and together with the Advisor Plan, the "2020 Equity Plan"). The Advisor Plan is substantially similar to the Individual Plan, except with respect to the eligible participants. Awards under the Individual Plan are open to the Company's directors, officers and employees (if the Company ever has employees), employees, officers and directors of the Advisor and as a general matter, employees of affiliates of the Advisor that provide services to the Company. Awards under the Advisor Plan may only be granted to the Advisor and its affiliates (including any person to whom the Advisor subcontracts substantially all of responsibility for directing or performing the day-to-day business affairs of the Company).

AMERICAN STRATEGIC INVESTMENT CO.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

June 30, 2023

(Unaudited)

The 2020 Equity Plan succeeded and replaced the existing RSP. Following the effectiveness of the 2020 Equity Plan at the listing of its shares on the NYSE, no further awards have been or will be granted under the RSP; provided, however, any outstanding awards under the RSP, such as unvested restricted shares held by the Company's independent directors, will remain in effect in accordance with their terms and the terms of the RSP, until all those awards are exercised, settled, forfeited, canceled, expired or otherwise terminated. The Company accounts for forfeitures when they occur. While the RSP provided only for awards of restricted shares, the 2020 Equity Plan has been expanded to also permit awards of restricted stock units, stock options, stock appreciation rights, stock awards, LTIP Units and other equity awards. In addition, the 2020 Equity Plan eliminates the "automatic grant" provisions of the RSP that dictated the terms and amount of the annual award of restricted shares to independent directors. Grants to independent directors are made in accordance with the Company's new director compensation program, as described below under "—Director Compensation." The 2020 Equity Plan has a term of 10 years, expiring August 18, 2030. The number of shares of the Company's capital stock that may be issued or subject to awards under the 2020 Equity Plan, in the aggregate, is equal to 20.0 % of the Company's outstanding shares of Class A common stock on a fully diluted basis at any time. Shares subject to awards under the Individual Plan reduce the number of shares available for awards under the Advisor Plan on a one -for-one basis and vice versa.

Director Compensation

On August 18, 2020 the Company listed shares of its Class A common stock on the NYSE (the "Listing Date"), and effective on that date, the Company's independent directors approved a change to the Company's director compensation program. Starting with the annual award of restricted shares made in connection with the Company's 2021 annual meeting of stockholders, the amount of the annual award was increased from \$ 30,000 to \$ 65,000 . No other changes have been made to the Company's director compensation program.

Restricted Shares

Restricted share awards entitle the recipient to receive shares of common stock from the Company under terms that provide for vesting over a specified period of time. Restricted shares may not, in general, be sold or otherwise transferred until restrictions are removed and the shares have vested. Holders of restricted shares receive cash dividends on the same basis as dividends paid on shares of common stock, if any, prior to the time that the restrictions on the restricted shares have lapsed and thereafter. Any dividends payable in shares of common stock are subject to the same restrictions as the underlying restricted shares.

In March 2022, the compensation committee delegated authority to the Company's chief executive officer to award up to 25,000 restricted shares (adjusted for the Reverse Stock Split) to employees of the Advisor or its affiliates who are involved in providing services to the Company, including the Company's chief financial officer, subject to certain limits and restrictions imposed by the compensation committee. The compensation committee remains responsible for approving and administering all grants of awards to the Company's chief financial officer or any other executive officer of the Company, including any award of restricted shares recommended by the Company's chief executive officer. No awards under the 2020 Equity Plan may be made pursuant to this delegation of authority to anyone who is also a partner, member or equity owner of the parent of the Advisor . As of June 30, 2023 there have been no shares awarded to anyone who is also a partner, member or equity owner of the parent of the Advisor.

Restricted share awards that have been granted to the Company's directors provide for accelerated vesting of the portion of the unvested restricted shares scheduled to vest in the year of the recipient's voluntary termination or the failure to be re-elected to the Company's board of directors.

During the second quarter of the year ended December 31, 2022, the Company granted 13,734 and 3,228 restricted shares (adjusted for the Reverse Stock Split) to employees of the Advisor and the Company's board of directors respectively. The restricted shares granted to employees of the Advisor or its affiliates will vest in 25 % increments on each of the first four anniversaries of the grant date. Except in connection with a change in control (as defined in the award agreement) of the Company, any unvested restricted shares will be forfeited if the holder's employment with the Advisor terminates for any reason. Upon a change in control of the Company, 50 % of the unvested restricted shares will immediately vest and the remaining unvested restricted shares will be forfeited. In addition, during the third quarter of the year ended December 31, 2022, the Company issued 762 restricted shares to two former employees of the Advisor working as consultants to the Advisor which, for accounting purposes, the fair value of such grants was fully expensed during the third quarter of the year ended December 31, 2022.

AMERICAN STRATEGIC INVESTMENT CO.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

**June 30, 2023
(Unaudited)**

The following table displays restricted share award activity during the six months ended June 30, 2023:

	Number of Restricted Shares	Weighted-Average Issue Price
Unvested, December 31, 2022	18,134	\$ 90.16
Granted	2,051	\$ 15.41
Vested	(5,917)	\$ (83.65)
Forfeitures	—	\$ —
Unvested, June, 2023	<u>14,268</u>	<u>\$ 151.49</u>

As of June 30, 2023, the Company had \$ 1.1 million of unrecognized compensation cost related to unvested restricted share awards granted and is expected to be recognized over a weighted-average period of 3.4 years. Restricted share awards are expensed in accordance with the service period required. Compensation expense related to restricted share awards was approximately \$ 0.2 million and \$ 0.3 million for the three and six months ended June 30, 2023, respectively, and \$ 109,516 and \$ 137,262 for the three and six months ended June 30, 2022, respectively. Compensation expense related to restricted share awards is recorded as equity-based compensation in the accompanying unaudited consolidated statements of operations and comprehensive loss. Also, for the three and nine months ended September 30, 2022, approximately \$ 0.1 million of additional net amortization expense was recorded for the accelerated vesting of restricted shares of one employee of the Advisor and the forfeiture, new issuance and vesting of restricted shares of other former employees of the Advisor who are providing certain consulting services to the Advisor.

Multi-Year Outperformance Award

On the Listing Date, the Company, the OP and the Advisor entered into the 2020 OPP pursuant to which a performance-based equity award was granted to the Advisor. The award was based on the recommendation of the Company's compensation consultant, and approved by the Company's independent directors, acting as a group.

Initially, the award under the 2020 OPP was in the form of a single LTIP Unit. On September 30, 2020, the 30 th trading day following the Listing Date, in accordance with its terms, the single LTIP Unit automatically converted into 501,605 LTIP Units (adjusted for the Reverse Stock Split), the quotient of \$ 50.0 million divided by \$ 99.68 (adjusted for the Reverse Stock Split), representing the average closing price of one share of Class A common stock over the ten consecutive trading days immediately prior to September 30, 2020. This number of LTIP Units represents the maximum number of LTIP Units that may be earned by the Advisor during a performance period ending on the earliest of (i) August 18, 2023, (ii) the effective date of any Change of Control (as defined in the 2020 OPP) and (iii) the effective date of any termination of the Advisor's service as advisor of the Company.

For accounting purposes, July 19, 2020 is treated as the grant date (the "Grant Date"), because the Company's independent directors approved the 2020 OPP and the award made thereunder on that date. The Company engaged third party specialists, who used a Monte Carlo simulation, to calculate the fair value as of the date the single LTIP Unit converted (September 30, 2020), on which date the fair value was also fixed. The total fair value of the LTIP Units of \$ 25.8 million is being recorded over the requisite service period of 3.07 years beginning on the Grant Date and ending on the third anniversary of the Listing Date (August 18, 2023). As a result, during the three and six months ended June 30, 2023 and 2022, the Company recorded equity-based compensation expense related to the LTIP Units of \$ 2.1 million and \$ 4.2 million, respectively. Equity-based compensation expense related to the LTIP Units is recorded in equity-based compensation in the consolidated statements of operations and comprehensive loss. As of June 30, 2023, the Company had \$ 1.1 million of unrecognized compensation expense related to the LTIP Units, which is expected to be recognized over a period of 0.1 years.

LTIP Units/Distributions/Redemption

The rights of the Advisor as the holder of the LTIP Units are governed by the terms of the LTIP Units set forth in the agreement of limited partnership of the OP. Holders of LTIP Units are entitled to distributions on the LTIP Units equal to 10 % of the distributions made per Class A Unit (other than distributions of sale proceeds) until the LTIP Units are earned. Distributions paid on a Class A Unit are equal to dividends paid on a share of Class A common stock. Distributions paid on LTIP Units are not subject to forfeiture, even if the LTIP Units are ultimately forfeited. The Advisor is entitled to a priority catch-up distribution on each earned LTIP Unit equal to 90 % of the aggregate distributions paid on Class A Units during the applicable performance period. Any LTIP Units that are earned become entitled to receive the same distributions paid on the Class A Units. If and when the Advisor's capital account with respect to an earned LTIP Unit is equal to the capital account

AMERICAN STRATEGIC INVESTMENT CO.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

June 30, 2023

(Unaudited)

balance of a Class A Unit, the Advisor, as the holder of the earned LTIP Unit, in its sole discretion, is entitled to convert the LTIP Unit into a Class A Unit, which may in turn be redeemed on a one -for-one basis for, at the Company's election, a share of Class A common stock or the cash equivalent thereof. Through the six months ended June 30, 2022 we paid dividends to our common stockholders at our current annual rate of \$ 3.20 per share of Class A common stock (adjusted for the Reverse Stock Split), or \$ 0.80 per share (adjusted for the Reverse Stock Split) on a quarterly basis. Subsequently, the board decided not to declare any further dividends. There is no assurance as to when or if the board will declare future dividends or the amount of any future dividends that may be declared. Because the LTIP Units only receive distributions when the Class A common stock receives dividends, no distributions have been paid since the quarter ended March 31, 2022.

For the three and six months ended June 30, 2023, the Company did not pay distributions related to the LTIP units and during the three and six months ended June 30, 2022, the Company paid \$ 40,000 and \$ 80,000 , respectively, of distributions related to the LTIP units.

Performance Measures

With respect to one-half of the LTIP Units granted under the 2020 OPP, the number of LTIP Units that become earned (if any) will be determined as of the last day of the performance period based on the Company's achievement of absolute total stockholder return ("TSR") levels as shown in the table below.

Performance Level	Absolute TSR	Percentage of LTIP Units Earned
Below Threshold	Less than 12 %	0 %
Threshold	12 %	25 %
Target	18 %	50 %
Maximum	24 % or higher	100 %

If the Company's absolute TSR is more than 12 % but less than 18 %, or more than 18 % but less than 24 %, the percentage of the Absolute TSR LTIP Units that become earned is determined using linear interpolation as between those tiers, respectively.

With respect to the remaining one-half of the LTIP Units granted under the 2020 OPP, the number of LTIP Units that become earned (if any) will be determined as of the last day of the performance period base on the difference (expressed in terms of basis points, whether positive or negative, as shown in the table below) between the Company's absolute TSR on the last day of the performance period relative to the average TSR of a peer group consisting of Empire State Realty Trust, Inc., Franklin Street Properties Corp., Paramount Group, Inc. and Clipper Realty Inc. as of the last day of the performance period.

Performance Level	Relative TSR Excess	Percentage of LTIP Units Earned
Below Threshold	Less than - 600 basis points	0 %
Threshold	- 600 basis points	25 %
Target	0 basis points	50 %
Maximum	+ 600 basis points	100 %

If the relative TSR excess is between - 600 basis points and zero basis points, or between zero basis points and + 600 basis points, the number of LTIP Units that become earned is determined using linear interpolation as between those tiers, respectively.

Other Terms

In the case of a change of control (as defined in the Advisory Agreement) or a termination of the Advisor without Cause (as defined in the Advisory Agreement), the number of LTIP Units that become earned will be calculated based on actual performance through the last trading day prior to the effective date of the change of control (as defined in the Advisory Agreement) or termination (as applicable), with the hurdles for calculating absolute TSR prorated to reflect a performance period of less than three years but without prorating the number of LTIP Units that may become earned to reflect the shortened performance period.

AMERICAN STRATEGIC INVESTMENT CO.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

June 30, 2023

(Unaudited)

In the case of a termination of the Advisor for Cause (as defined in the Advisory Agreement), the number of LTIP Units that become earned will be calculated based on actual performance through the last trading day prior to the effective date of the termination, with the hurdles for calculating absolute TSR and the number of LTIP Units that may become earned each prorated to reflect a performance period of less than three years.

The award of LTIP Units under the 2020 OPP is administered by the Company's compensation committee, provided that any of the compensation committee's powers can be exercised instead by the Company's board of directors if the board of directors so elect. Promptly following the performance period, the compensation committee will determine the number of LTIP Units earned, (if any) based on calculations prepared by an independent consultant engaged by the Committee and as approved by the compensation committee in its reasonable and good faith discretion. The compensation committee also must approve the transfer of any LTIP Units or any Class A Units into which LTIP Units may be converted in accordance with the terms of the A&R OP Agreement. Any LTIP Units that are not earned will automatically be forfeited effective as of the end of the performance period and neither the Company nor the OP will be required to pay any future consideration in respect thereof.

Other Share-Based Compensation

The Company may issue Class A common stock in lieu of cash to pay fees earned by the Company's board of directors at the respective director's election. There are no restrictions on the shares issued. During the three months ended March 31, 2022, the Company's independent board of directors made an election to receive stock in lieu of cash for board services rendered during the fourth quarter of the year ended December 31, 2021 and accordingly, the expense was recorded in the fourth quarter of the year ended December 31, 2021. Also, during the three months ended June 30, 2022, the Company's independent board of directors made an election to receive stock in lieu of cash for board services rendered during the first quarter of the year ended December 31, 2022 and accordingly, the expense was recorded in the first quarter of the year ended December 31, 2022. As a result, the Company issued 649 and 606 shares of its Class A common stock (adjusted for the Reverse Stock Split) to the Company's independent board of directors in the first and second quarters of the year ended December 31, 2022, respectively, relating to services rendered and expenses recorded in the year ended December 31, 2021 and quarter ended March 31, 2022, respectively. There were no shares of common stock issued in lieu of cash during the three and six months ended June 30, 2023.

Note 12 — Income Taxes

On December 30, 2022, the Company announced that it was changing its business strategy by expanding the scope of the assets and businesses the Company may own and operate. By investing in other asset types, the Company may generate income that does not otherwise constitute income that qualifies for purposes of qualifying as a REIT. As a result, on January 9, 2023, the Company's board of directors authorized termination of the Company's REIT election which became effective on January 1, 2023. Historically, effective with the taxable year ended December 31, 2014 through December 31, 2022, the Company had elected to be taxed as a REIT.

The Company is subject to U.S. federal, state and local income taxes. For deferred items, the Company records net deferred tax assets to the extent the Company believes these assets will more likely than not be realized. Because of the Company's recent operating history of taxable losses and the impacts of the COVID-19 pandemic on the results of operations, the Company is not able to conclude that it is more likely than not it will realize the future benefit of its deferred tax assets; thus the Company has provided a 100 % valuation allowance as of June 30, 2023 and as of December 31, 2022. If and when the Company believes it is more likely than not that it will recover its deferred tax assets, the Company will reverse the valuation allowance as an income tax benefit in its consolidated statements of comprehensive income (loss).

The effective tax rate was zero for the three and six months ended June 30, 2023 and 2022. The Company expects to have a taxable loss for federal, state and local income taxes for the year ending December 31, 2023. Accordingly, the Company has recorded no income tax expense (after considering changes in the valuation allowance) for the three and six months ended June 30, 2023. The Company remains in a net deferred tax asset position with a full valuation allowance as of both June 30, 2023 and December 31, 2022. As of June 30, 2023, the Company had no material uncertain tax positions.

AMERICAN STRATEGIC INVESTMENT CO.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

June 30, 2023

(Unaudited)

Note 13 — Net Loss Per Share

The following is a summary of the basic and diluted net loss per share computation for the periods presented:

(In thousands, except share and per share data)	Three Months Ended June 30,		Six Months Ended June 30,	
	2023	2022	2023	2022
Net loss attributable to common stockholders (in thousands)	\$ (10,899)	\$ (13,001)	\$ (22,657)	\$ (24,713)
Adjustments to net loss attributable to common stockholders	—	(40)	—	(80)
Adjusted net loss attributable to common stockholders	\$ (10,899)	\$ (13,041)	\$ (22,657)	\$ (24,793)
Weighted average shares outstanding — Basic and Diluted	2,286,797	1,679,211 ⁽¹⁾	2,163,524	1,670,880 ⁽¹⁾
Net loss per share attributable to common stockholders — Basic and Diluted	\$ (4.77)	\$ (7.77) ⁽¹⁾	\$ (10.47)	\$ (14.84) ⁽¹⁾

⁽¹⁾ Retroactively adjusted for the effects of the Reverse Stock Split (See [Note 1](#)).

Under current authoritative guidance for determining earnings per share, all unvested share-based payment awards that contain non-forfeitable rights to distributions are considered to be participating securities and therefore are included in the computation of earnings per share under the two-class method. The two-class method is an earnings allocation formula that determines earnings per share for each class of common shares and participating security according to dividends declared (or accumulated) and participation rights in undistributed earnings. The Company's unvested restricted shares, Class A Units and unearned LTIP Units contain rights to receive distributions considered to be non-forfeitable, except in certain limited circumstances, and therefore the Company applies the two-class method of computing earnings per share. The calculation of earnings per share above adjusts net loss to exclude the distributions to the unvested restricted shares, Class A Units and the unearned LTIP Units that were issued under the 2020 OPP from the numerator. On July 1, 2022, the Company announced that it suspended its policy regarding dividends paid on its Class A common stock, beginning with the dividend that would have been payable for the quarter ended June 30, 2022. Accordingly, there is no adjustment for the three and six month periods ended June 30, 2023 relating to distributions to LTIP Units which are paid in arrears. Accordingly, since the LTIP Units only receive distributions when the Class A common stock receives dividends there were no distributions to the LTIP Units beginning with the distribution that would have been payable for the quarter ended June 30, 2022 and quarterly periods thereafter.

Diluted net loss per share assumes the conversion of all Class A common stock share equivalents into an equivalent number of shares of Class A common stock, unless the effect is anti-dilutive. The Company considers unvested restricted shares, Class A Units and unvested LTIP Units to be common share equivalents. The following table shows common share equivalents on a weighted average basis that were excluded from the calculation of diluted earnings per share as their effect would have been antidilutive for the periods presented.

	Three Months Ended June 30,		Six Months Ended June 30,	
	2023	2022	2023	2022
Unvested restricted shares ⁽¹⁾	16,399	13,890	18,241	8,548
LTIP Units ⁽²⁾	501,605	501,605	501,605	501,605
Total weighted-average anti-dilutive common share equivalents	518,004	515,495	519,846	510,153

⁽¹⁾ There were 14,268 and 19,434 unvested restricted shares outstanding as of June 30, 2023 and 2022, respectively (adjusted for the Reverse Stock Split).

⁽²⁾ There were 501,605 LTIP Units outstanding (adjusted for the Reverse Stock Split) as of June 30, 2023 and 2022, respectively (see [Note 11](#) — *Equity-Based Compensation* for additional information).

AMERICAN STRATEGIC INVESTMENT CO.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

June 30, 2023

(Unaudited)

If dilutive, conditionally issuable shares relating to the 2020 OPP award (see [Note 11](#) — *Equity-Based Compensation* for additional information) would be included, as applicable, in the computation of fully diluted EPS on a weighted-average basis for and six month periods ended June 30, 2023 and 2022, respectively, based on shares that would be issued if the applicable balance sheet date was the end of the measurement period. No LTIP Unit share equivalents were included in the computation for six month periods ended June 30, 2023 because either or both (i) no LTIP Units would have been earned based on the trading price of Class A common stock including any cumulative dividends paid (since inception of the 2020 OPP) at June 30, 2023 and 2022 or (ii) the Company recorded a net loss to common stockholders for all periods presented and any shares conditionally issuable under the LTIPs would be anti-dilutive.

Note 14 — Subsequent Events

The Company has evaluated subsequent events through the filing of this Quarterly Report on Form 10-Q and determined that there have not been any events that have occurred that would require adjustments to disclosures in the consolidated financial statements.

Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations.**Forward-Looking Statements**

Certain statements included in this Quarterly Report on Form 10-Q are forward-looking statements including statements regarding the intent, belief or current expectations of American Strategic Investment Co. (including, as required by context, New York City Operating Partnership, L.P. (the "OP") and its subsidiaries, "we," "our" or "us") and members of our management team, as well as the assumptions on which such statements are based, and generally are identified by the use of words such as "may," "will," "seeks," "anticipates," "believes," "estimates," "expects," "plans," "intends," "should" or similar expressions. Actual results may differ materially from those contemplated by such forward-looking statements. Further, forward-looking statements speak only as of the date they are made, and we undertake no obligation to update or revise forward-looking statements to reflect changed assumptions, the occurrence of unanticipated events or changes to future operating results over time, unless required by law.

These forward-looking statements are subject to risks, uncertainties, and other factors, many of which are outside of our control, which could cause actual results to differ materially from the results contemplated by the forward-looking statements. Some of the risks and uncertainties, although not all risks and uncertainties, that could cause our actual results to differ materially from those presented in our forward-looking statements are set forth in the Risk Factors section of our Annual Report on Form 10-K for the year ended December 31, 2022, this and our other Quarterly Reports on Form 10-Q and our other filings with the Securities and Exchange Commission ("SEC").

Overview

We are an externally managed company that owns a portfolio of commercial real estate located within the five boroughs of New York City, primarily Manhattan. Our real estate assets consist of office properties and certain real estate assets that accompany office properties, including retail spaces and amenities and parking garages that do not accompany office spaces. At our 1140 Avenue of the Americas property, during the third quarter of 2021, we also began operating Innovate NYC, a co-working company that is specific to this property only, that offers move-in ready private offices, virtual offices, and meeting space on bespoke terms to clients. As of June 30, 2023, we owned eight properties consisting of 1.2 million rentable square feet, acquired for an aggregate purchase price of \$790.7 million with an overall occupancy of 85.1%.

On December 30, 2022, we announced that we were changing our business strategy by expanding the scope of the assets and businesses we may own and operate. By investing in other asset types, we may generate income that does not otherwise constitute income that qualifies for purposes of qualifying as a REIT. As a result, on January 9, 2023, our board of directors authorized termination of our REIT election which became effective on January 1, 2023. Historically, we had filed an election to be taxed as a REIT commencing with our taxable year ended December 31, 2014, which remained in effect with respect to each subsequent taxable year ending on or before the year ended December 31, 2022.

On January 11, 2023 we effected a 1-for-8 reverse stock split that was previously approved by our board, resulting in each outstanding share of Class A common stock being converted into 0.125 shares of common stock, with no fractional shares being issued. For additional information, see Note 7 — Stockholders' Equity to our consolidated financial statements included in this Quarterly Report on Form 10-Q. Also, effective January 19, 2023, we amended our charter to change our name to "American Strategic Investment Co." from "New York City REIT, Inc." Trading of our Class A common stock on the New York Stock Exchange under the new name began on January 20, 2023 under the existing trading symbol "NYC." Shares of our Class A common stock were first listed on the New York Stock Exchange ("NYSE") on August 18, 2020. Also, on February 22, 2023, we completed a non-transferable rights offering raising gross proceeds of \$5.0 million. As a result, we issued 386,100 shares of our Class A common stock subscribed for in the Rights Offering on February 27, 2023.

Substantially all of our business is conducted through the OP and its wholly owned subsidiaries. New York City Advisors, LLC (our "Advisor") manages our day-to-day business with the assistance of New York City Properties, LLC (our "Property Manager"). Our Advisor and Property Manager are under common control with AR Global Investments, LLC ("AR Global") and these related parties receive compensation and fees for providing services to us. We also reimburse these entities for certain expenses they incur in providing these services to us.

Management Update on the Impacts of the COVID-19 Pandemic

New York City, where all of our properties are located, has been among the hardest hit locations in the country and fully reopened from relevant restrictions and lockdowns on March 7, 2022. The pace of recovery in the New York City office market from the COVID-19 pandemic continues to be challenged as leasing and occupancy trends for the broader market have slowed, leading political, community, and business leaders to propose repositioning plans for many New York City office assets that are experiencing high vacancy rates.

The negative impacts of the COVID-19 pandemic during 2020 and 2021 caused certain of our tenants to be unable to make rent payments to us timely, or at all. As a result, we did experience delays in rent collections during 2021, however, with the exception of one minor lease deferral during the third quarter of the year ended December 31, 2022, this trend did not continue.

into 2022 or the first six months of 2023. During the quarter ended June 30, 2023 we had two lease terminations, unrelated to the impact of COVID-19, and four new leases that commenced and we continue to modify leases as opportunities arise.

Beginning in the third and fourth quarters of 2020, the operating results at 1140 Avenue of the Americas, 9 Times Square, 400 E. 67th Street - Laurel Condominium/200 Riverside Boulevard Garage and 8713 Fifth Avenue properties were negatively impacted by the COVID-19 pandemic causing cash trap events under the non-recourse mortgages for those properties to be triggered. Thus, we were not able to use excess cash flow, if any, from the properties while the cash trap events were active, to fund operating expenses at our other properties and other capital requirements. As of June 30, 2023 two of our mortgages aggregating \$109.0 million in principal amount remained in a cash trap event, all as described in detail further below in the *Liquidity and Capital Resources* section.

We took several steps to mitigate the impact of the pandemic on our business and in some cases, in 2020 and 2021, we executed different types of lease amendments, including rent deferrals and abatements and, in some cases, extensions to the term of the leases. There were no new deferrals or abatements during the six months ended June 30, 2023.

Our portfolio is primarily comprised of office and retail tenants. We have collected 100% of original cash rent due across our entire portfolio for the three months ended June 30, 2023 (based on annualized straight-line rent as of June 30, 2023). The original cash rent received across our entire portfolio was consistent with the first quarter 2023 and the 2022 quarterly collection percentages. We expect our cash rent collections will stay at current levels, however there can be no assurance that we will be able to collect cash rent at these levels in the future. The cash rent collections for the second quarter of 2023 includes cash receipts through July 31, 2023 and therefore is inclusive of cash received in July for rent due in the second quarter of 2023. Cash received in July 2023 is not included in cash and cash equivalents on our June 30, 2023 consolidated balance sheet and was immaterial in amount for quarter ended June 30, 2023. "Original cash rent" refers to contractual rents on a cash basis due from tenants as stipulated in their originally executed lease agreement at inception or as amended, prior to any rent deferral agreement. We calculate "original cash rent collections" by comparing the total amount of rent collected during the period to the original cash rent due. Total rent collected during the period includes both original cash rent due and payments made by tenants pursuant to rent deferral agreements.

Our cash rent collections may not be indicative of any future period. Moreover, there is no assurance that we will be able to collect the cash rent that is due in future months including the remaining amounts deferred from 2021 or the deferred 2022 rent amounts that we expect to receive during the remainder of 2023 under deferral agreements we have entered into with our tenants.

Significant Accounting Estimates and Critical Accounting Policies

For a discussion about our significant accounting estimates and critical accounting policies, see the "Significant Accounting Estimates and Critical Accounting Policies" section of our 2022 Annual Report on Form 10-K. Except for those required by new accounting pronouncements discussed below, there have been no material changes from these significant accounting estimates and critical accounting policies.

Recently Issued Accounting Pronouncements

See [Note 2](#) — *Summary of Significant Accounting Policies - Recently Issued Accounting Pronouncements* to our consolidated financial statements in this Quarterly Report on Form 10-Q for further discussion.

Properties

The following table presents certain information about the investment properties we owned as of June 30, 2023:

Portfolio	Acquisition Date	Number of Properties	Rentable Square Feet	Occupancy	Remaining Lease Term ⁽¹⁾
421 W. 54th Street - Hit Factory	Jun. 2014	1	12,327	— %	—
400 E. 67th Street - Laurel Condominium	Sept. 2014	1	58,750	100.0 %	4.0
200 Riverside Boulevard - ICON Garage	Sept. 2014	1	61,475	100.0 %	14.0
9 Times Square	Nov. 2014	1	167,390	68.0 % ⁽²⁾	6.6
123 William Street	Mar. 2015	1	542,676	92.0 % ⁽²⁾	5.5
1140 Avenue of the Americas	Jun. 2016	1	242,646	74.6 % ⁽³⁾	6.7
8713 Fifth Avenue	Oct. 2018	1	17,500	88.6 % ⁽⁴⁾	8.6
196 Orchard Street	Jul. 2019	1	60,297	100.0 %	11.9
		<u>8</u>	<u>1,163,061</u>	<u>85.1 %</u>	<u>6.8</u>

⁽¹⁾ Calculated on a weighted-average basis as of June 30, 2023, as applicable.

⁽²⁾ In January 2021, our former tenant, Knotel, filed for bankruptcy and the leases with this tenant were terminated effective January 31, 2021, which impacted two of our properties, 9 Times Square and 123 William Street. The Knotel termination and new leasing activity since that time has resulted in occupancy at the 9 Times Square property of 68.0% as of June 30, 2023, as compared to 61.9% and 59.3% as of December 31, 2022 and 2021, respectively. After taking into account the Knotel termination and new leasing activity since that time at the 123 William Street property, occupancy as of June 30, 2023, was 92.0%, as compared to 91.4% and 90.8% as of December 31, 2022 and 2021, respectively.

⁽³⁾ Occupancy at 1140 Avenue of the Americas increased 3.7% for the period ended June 30, 2023 as compared to December 31, 2022. The increase was due to two new leases signed in the quarter ended March 31, 2023.

⁽⁴⁾ The Company signed a lease with a new tenant at this property in November 2021, and began occupying a portion of the leased space in the quarter ended March 31, 2023 and is expected to occupy the remainder of the space in the fourth quarter of 2023, which will bring the occupancy to 100.0%.

Results of Operations

As of June 30, 2023 and 2022, our overall portfolio occupancy was 85.1% and 84.0%, respectively. The following table is a summary of our quarterly leasing activity during the first three months of 2023. There were no replacement leases during the year ended December 31, 2022 and the six months ended June 30, 2023.

	Q1 2023	Q2 2023
Leasing activity:		
New leases:		
New leases commenced	5	4
Total square feet leased	19,812	26,778
Annualized straight-line rent per square foot ⁽¹⁾	\$ 54.18	\$ 55.14
Weighted-average lease term (years) ⁽²⁾	12.7	5.4
Terminated or expired leases:		
Number of leases terminated or expired	1	2
Square feet	4,548	7,908
Annualized straight-line rent per square foot ⁽¹⁾	\$ 44.93	\$ 60.35

⁽¹⁾ Represents the GAAP basis annualized straight-line rent that is recognized over the term on the respective leases, which includes free rent, periodic rent increases, and excludes recoveries.

⁽²⁾ The weighted-average remaining lease term (years) is based on annualized straight-line rent.

Comparison of Three Months Ended June 30, 2023 and 2022

As of June 30, 2023, we owned eight properties, all of which were acquired prior to January 1, 2022. Our results of operations for the three months ended June 30, 2023 as compared to the three months ended June 30, 2022 primarily reflect changes due to leasing activity and occupancy.

Net Loss Attributable to Common Stockholders

Net loss attributable to common stockholders was \$10.9 million for the quarter ended June 30, 2023, as compared to \$13.0 million for the quarter ended June 30, 2022. The change in net loss income attributable to common stockholders is discussed in detail for each line item of the consolidated statements of operations in the sections that follow.

Revenue from Tenants

Revenue from tenants decreased slightly to \$15.8 million for the three months ended June 30, 2023 as compared to \$16.2 million for the three months ended June 30, 2022. The decrease was primarily due to percentage rent agreements naturally expiring during the quarter ended June 30, 2022 that resulted in a decrease in revenue, as well as a decrease in our real estate tax reimbursement billings. The percentage rent deals that we entered into provided us with an opportunity to capture more original cash rent due as New York City began to rebound from the COVID-19 pandemic.

Asset and Property Management Fees to Related Parties

We incurred \$2.0 million and \$1.8 million in fees for asset and property management services paid to our Advisor and Property Manager for the three months ended June 30, 2023 and 2022, respectively. See [Note 9](#) — *Related Party Transactions and Arrangements* to our consolidated financial statements in this Quarterly Report on Form 10-Q for more information on fees incurred from our Advisor and Property Manager. The Advisor elected to receive shares in lieu of cash for the January 2023 base management fee, however the remainder of the management fees in the first and second quarters of 2023 were paid in cash. Also, in the quarter ended June 30, 2022, in accordance with the Side Letter entered into with the Advisor (as defined below), the Advisor reinvested base management fees, aggregating \$1.5 million (for April, May and June of 2022), in cash and reinvested these fees in shares of the Company's Class A common stock. For accounting purposes, the shares issued in the quarter ended June 30, 2022 were issued using the closing price on date of issue and the related expense was \$1.3 million for the three months ended June 30, 2022.

Property Operating Expenses

Property operating expenses increased to \$8.4 million for the three months ended June 30, 2023 compared to \$8.3 million for the three months ended June 30, 2022. This was primarily due to higher professional fees, repairs and maintenance and utility expenses for the three months ended June 30, 2023.

Impairments of Real Estate Investments

During the three months ended June 30, 2023, we recorded impairment charges of \$0.2 million related to our 421 W. 54th Street - Hit Factory property. We have been evaluating our options for this property, including selling the property. We have not, however, entered into an agreement to sell this property which, therefore, does not qualify to be classified as held for sale on the consolidated balance sheet as of June 30, 2023. However, during quarter ended June 30, 2023, we recorded impairment charges for this property because we determined that the carrying value exceeded our estimate of the net sale price of the property as of June 30, 2023.

Equity-Based Compensation

Equity-based compensation increased \$0.1 million to \$2.3 million for the three months ended June 30, 2023 compared to \$2.2 million for the three months ended June 30, 2022. These amounts are comprised of restricted share amortization expense and the amortization of our multi-year outperformance award granted to the Advisor in August 2020 (the "2020 OPP"). The expense from the 2020 OPP is generally consistent period over period. The increase relates to higher restricted share amortization expense due to additional restricted shares issued to our board of directors in June 2022. See [Note 11](#) — *Equity-Based Compensation* to our consolidated financial statements included in this Quarterly Report on Form 10-Q for further details on the 2020 OPP and restricted shares of common stock.

General and Administrative Expenses

General and administrative expenses decreased to \$2.4 million for the three months ended June 30, 2023 from \$5.2 million for three months ended June 30, 2022. The decrease was due to lower proxy costs in the quarter ended June 30, 2023 as compared to the three months ended June 30, 2022. During the three months ended June 30, 2022 in connection with the annual meeting of stockholders and proxy contest we incurred overall higher legal and other costs of approximately \$2.1 million, which were attributable to the portion of our 2022 proxy contest materials.

Total reimbursement expenses for administrative and personnel services provided by the Advisor during the three months ended June 30, 2023 and 2022 were \$0.8 million (\$0.7 million related to salaries, wages, and benefits and \$0.1 million related to administrative and overhead expenses) and \$0.9 million (\$0.7 million related to salaries, wages, and benefits and \$0.1 million related to administrative and overhead expenses), respectively.

Pursuant to our Advisory Agreement, reimbursement for administrative and overhead expenses and reimbursements for salaries, wages, and benefits are subject to annual limits of \$2.6 million related to salaries, wages, and benefits and \$0.4 million related to administrative and overhead expenses. See [Note 9](#) — *Related Party Transactions and Arrangements* to our consolidated financial statements included in this Quarterly Report on Form 10-Q for further details.

Depreciation and Amortization

Depreciation and amortization expense decreased to \$6.7 million for the three months ended June 30, 2023 as compared to \$7.0 million for the three months ended June 30, 2022. The decrease was primarily due to the write-off of in-place leases in the quarter ended June 30, 2022 as a result of lease terminations.

Interest Expense

Interest expense remained approximately the same at \$4.7 million for the three months ended June 30, 2023, compared to \$4.7 million for the three months ended June 30, 2022. During the three months ended June 30, 2023 and 2022, our weighted-average outstanding debt balance was \$399.5 million, and had a weighted-average effective interest rate of 4.35% in each period. All of our mortgage debt is either fixed rate or swapped to fixed rate and, accordingly, we have not currently been affected by rising interest rates.

Comparison of Six Months Ended June 30, 2023 and 2022

As of June 30, 2023, we owned eight properties, all of which were acquired prior to January 1, 2021. Changes in our results of operations for the six months ended June 30, 2023 as compared to the six months ended June 30, 2022 was primarily due to an increase in occupancy which increased rental revenue for previously vacant spaces.

Revenue from Tenants

Revenue from tenants decreased slightly to \$31.3 million for the six months ended June 30, 2023, from \$31.9 million for the six months ended June 30, 2022. The decrease was primarily due to percentage rent agreements naturally expiring during the quarter ended June 30, 2022 that resulted in a decrease in revenue, as well as a decrease in our real estate tax reimbursement billings. The percentage rent deals that we entered into provided us with an opportunity to capture more original cash rent due as New York City began to rebound from the COVID-19 pandemic.

Asset and Property Management Fees to Related Parties

Fees for asset and property management services paid to our Advisor and Property Manager were \$3.9 million and \$3.7 million for the six months ended June 30, 2023 and 2022, respectively. See [Note 9](#) — *Related Party Transactions and Arrangements* to our consolidated financial statements in this Quarterly Report on Form 10-Q for more information on fees.

incurred from our Advisor and Property Manager. The Advisor elected to receive shares in lieu of cash for the January 2023 base management fee, however the remainder of the management fees in the six months ended June 30, 2023 were paid in cash. Also, in the six months ended June 30, 2022, in accordance with the Side Letter, the Advisor was paid base management fees, aggregating \$2.5 million in cash and reinvested these fees in shares of the Company's Class A common stock. For accounting purposes these shares are issued using the closing price on date of issuance and the related expense was \$0.5 million and \$2.3 million for the six months ended June 30, 2023 and 2022, respectively.

Property Operating Expenses

Property operating expenses decreased \$0.2 million to \$16.8 million for the six months ended June 30, 2023 from \$16.9 million for the six months ended June 30, 2022. This was primarily due to lower professional fees, repairs and maintenance and utility expenses for the six months ended June 30, 2023.

Impairments of Real Estate Investments

During the six months ended June 30, 2023, we recorded impairment charges of \$0.2 million related to our 421 W. 54th Street - Hit Factory property. We have been evaluating our options for this property, including selling the property. We have not, however, entered into an agreement to sell this property which, therefore, does not qualify to be classified as held for sale on the consolidated balance sheet as of June 30, 2023. However, during the six months ended June 30, 2023, we recorded impairment charges for this property because we determined that the carrying value exceeded our estimate of the net sale price of the property as of June 30, 2023.

Equity-Based Compensation

Equity-based compensation increased to \$4.5 million for the six months ended June 30, 2023, as compared to \$4.3 million for the six months ended June 30, 2022. These amounts are comprised of restricted share amortization expense and the amortization of our multi-year outperformance award granted to the Advisor in August 2020 (the "2020 OPP"). The expense from the 2020 OPP is generally consistent period over period. The increase relates to higher restricted share amortization expense due to additional restricted shares issued to employees of the Advisor in April 2022 and additional restricted shares issued to our board of directors in June 2022. See [Note 11 — Equity-Based Compensation](#) to our consolidated financial statements included in this Quarterly Report on Form 10-Q for further details on the 2020 OPP and restricted shares of common stock.

General and Administrative Expenses

General and administrative expenses decreased \$2.5 million to \$5.6 million for the six months ended June 30, 2023 compared to \$8.2 million for the six months ended June 30, 2022. The decrease was due to lower proxy costs in the quarter ended June 30, 2023 as compared to the six months ended June 30, 2022. During the six months ended June 30, 2022 in connection with the annual meeting of stockholders and proxy contest we incurred overall higher legal and other costs of approximately \$2.5 million, which were attributable to the portion of our 2022 proxy contest materials.

Total reimbursement expenses for administrative and personnel services provided by the Advisor during the six months ended June 30, 2023 and June 30, 2022 were \$1.9 million (\$1.5 million were for salaries, wages, and benefits and \$0.4 million related to administrative and overhead expenses) and \$2.1 million (\$1.7 million were for salaries, wages, and benefits and \$0.4 million related to administrative and overhead expenses), respectively.

Pursuant to our Advisory Agreement, reimbursement for administrative and overhead expenses and reimbursements for salaries, wages, and benefits are subject to annual limits of \$2.6 million related to salaries, wages, and benefits and \$0.4 million related to administrative and overhead expenses. See [Note 9 — Related Party Transactions and Arrangements](#) to our consolidated financial statements included in this Quarterly Report on Form 10-Q for further details.

Depreciation and Amortization

Depreciation and amortization expense decreased slightly to \$13.7 million for the six months ended June 30, 2023, compared to \$14.0 million for the six months ended June 30, 2022. The decrease was primarily due to the write-off of in-place leases in second quarter of 2022 in relation to lease terminations during the quarter ended June 30, 2022.

Interest Expense

Interest expense remained the same at \$9.4 million for the six months ended June 30, 2023, and for the six months ended June 30, 2022. In the quarter ended March 31, 2022 there was a partial pay-down of the loan secured by 9 Times Square. During the six months ended June 30, 2023 and 2022, our weighted average outstanding debt balance was \$399.5 million and \$401.3 million, respectively, and had a weighted-average effective interest rate of 4.35% in each period. All of our mortgage debt is fixed rate and, accordingly, we have not currently been affected by rising market interest rates.

Cash Flows from Operating Activities

The level of cash flows used in or provided by operating activities is affected by the restricted cash we are required to maintain, the timing of interest payments, the receipt of scheduled rent payments and the level of general, administrative and property operating expenses.

Net cash used in operating activities was \$4.2 million during the six months ended June 30, 2023 and was impacted primarily by a net loss of \$22.7 million, adjusted for non-cash items of \$19.6 million, including depreciation and amortization of tangible and intangible real estate assets, amortization of deferred financing costs, accretion/amortization of below market and above market lease liabilities and assets, equity-based compensation and management fees reinvested by the Advisor. Net cash provided by operating activities was also impacted by an increase in prepaid expenses and other assets of \$0.5 million and an increase in accounts payable and accrued expenses associated with operating activities of \$0.2 million, an increase in deferred revenue (prepaid rent) of \$0.4 million and an increase in straight-line receivable of \$0.1 million.

Net cash provided by operating activities was \$1.7 million during the six months ended June 30, 2022 and was impacted primarily by a net loss of \$24.7 million, adjusted for non-cash items of \$21.3 million, including depreciation and amortization of tangible and intangible real estate assets, amortization of deferred financing costs, accretion/amortization of below market and above market lease liabilities and assets, equity-based compensation and management fees reinvested by the Advisor. Net cash provided by operating activities also included a decrease in prepaid expenses and other assets of \$0.5 million and an increase in accounts payable and accrued expenses associated with operating activities of \$9.2 million, a decrease in deferred revenue (prepaid rent) of \$1.4 million and an increase in straight-line receivable of \$2.2 million.

Cash Flows from Investing Activities

Net cash used in investing activities of \$2.8 million during the six months ended June 30, 2023 consisted of the funding of capital expenditures relating to tenant and building improvements at 9 Times Square, 123 William Street, 1140 Avenue of the Americas and 8713 Fifth Avenue.

Net cash used in investing activities of \$1.4 million during the six months ended June 30, 2022 consisted of the funding of capital expenditures relating to tenant and building improvements at 123 William Street and 1140 Avenue of the Americas.

Cash Flows from Financing Activities

Net cash provided by financing activities was \$4.0 million during the six months ended June 30, 2023 due primarily to the net proceeds of \$4.1 million from the Rights Offering.

Net cash used by financing activities was \$8.3 million during the six months ended June 30, 2022 related to payments on mortgage notes payable of \$5.5 million and the payment of dividends on common stock of \$2.7 million.

Liquidity and Capital Resources

Our principal demands for cash are to fund operating and administrative expenses, capital expenditures, tenant improvement and leasing commission costs related to our properties, our debt service obligations and, subject to capital availability, acquisitions. We did not make any new acquisitions or investments in the quarter ended June 30, 2023.

Cash, Cash Equivalents and Restricted Cash

As of June 30, 2023, we had cash and cash equivalents of \$7.1 million as compared to \$9.2 million as of December 31, 2022. The decrease in cash was mainly due to the funding of capital expenditures related to building and tenant improvements at our 9 Times Square, 123 William Street, 1140 Avenue of the Americas and 8713 Fifth Avenue properties. Under the guarantee of certain enumerated recourse liabilities of the borrower under one of our mortgage loans, we are required to maintain a minimum net worth in excess of \$175.0 million and minimum liquid assets (i.e. cash and cash equivalents) of \$10.0 million, which includes cash and cash equivalents and restricted cash, which totaled \$13.2 million as of June 30, 2023.

We had restricted cash of \$6.1 million as of June 30, 2023 as compared to \$6.9 million as of December 31, 2022. The decrease in cash was due to the funding of capital expenditures at our 1140 Avenue of the Americas property. We are able to use a portion of our restricted cash for certain property operating expenses and capital expenditures. For certain property operating expenses and capital expenditures specifically related to our 1140 Avenue of the Americas property, lender approval is required to use any of the cash that is held in restricted cash accounts resulting from the breach of covenants on the loan secured by that property (see below). As a result, some of the property operating expenses and capital expenditures that will be paid with restricted cash may reside in accounts payable and accrued expenses on our consolidated balance sheet as of June 30, 2023.

Segregated Cash Accounts - Loan Covenant Breaches

The negative impacts of the COVID-19 pandemic have caused and may continue to cause certain of our tenants to be unable to make rent payments to us timely, or at all, and could continue to have, an adverse effect on the amount of cash we receive from our operations and therefore our ability to fund operating expenses and other capital requirements. Beginning in the third and fourth quarters of 2020, the operating results at some of our properties, including our 1140 Avenue of the

Americas and 8713 Fifth Avenue properties, were negatively impacted by the COVID-19 pandemic causing cash trap events under the non-recourse mortgages, where excess operating cash flow from the property, if any, after debt service was held in restricted cash as additional collateral for the loan, for those properties to be triggered. Thus, we were not able to use excess cash flow, if any, from these properties to fund operating expenses at our other properties and other capital requirements during the quarter ended June 30, 2023.

As of June 30, 2023, we are only operating under two cash traps (1140 Avenue of the Americas and 8713 Fifth Avenue), which together, represent 22% of the rentable square feet in our portfolio as of June 30, 2023. Also, as of June 30, 2023 and December 31, 2022, there was \$2.3 million and \$3.6 million of cash maintained in a segregated and restricted cash account resulting from the breach of covenants on the loan secured by our 1140 Avenue of the Americas property. However, our 8713 Fifth Avenue property has not generated excess cash after debt service and as of June 30, 2023 there is no related cash maintained in a segregated and restricted cash account for that property. We may not access the cash from the 1140 Avenue of the Americas property without lender approval unless and until the various breaches have been cured. Excess cash generated by the 1140 Avenue of the Americas property continues to be deposited in a separate cash management account until the borrower under the loan is able to comply with all of the applicable covenants.

Liquidity

We do not have any significant scheduled debt principal repayments due until 2024 when the loan secured by Nine Times Square matures. We are presently evaluating our options to extend or refinance that loan. We believe that we will have sufficient cash available to us to meet our operating and capital requirements over the next year. We expect to fund our operating expenses and capital requirements over the next 12 months with cash on hand as of June 30, 2023 and the cash we believe we will generate from operations that are not otherwise subject to cash traps described herein.

In February 2023, we raised gross proceeds of \$5.0 million (\$4.1 million of net proceeds) from our Rights Offering, which entitled holders of rights to purchase 0.20130805 of a share of our Class A common stock for every right held at a subscription price of \$12.95 per whole share. As a result, we issued 386,100 shares of our Class A common stock subscribed for in our Rights Offering on February 27, 2023. The net proceeds were used for general corporate purposes.

We may also use cash from dispositions, if we decide to sell an asset (we are evaluating our options for our 421 W. 54th Street - Hit Factory property, which include potentially selling the property to a third party).

To further augment our liquidity, we may potentially be able to generate funds for these needs through the additional offering and sale of Class A common stock through the Common Stock ATM Program (as defined below) or the potential issuance or placement of unsecured debt or an offering of equity securities as well as proceeds from property dispositions, if any. Our ability to sell shares under our existing shelf registration statement including under the Common Stock ATM Program is limited to one third of our market capitalization unless the aggregate value of our Class A common stock held by non-affiliates exceeds \$75.0 million. As of June 30, 2023, our public float was \$18.2 million. During the year ended December 31, 2022 and the three months ended March 31, 2023, we were also able to preserve cash through an arrangement reached with our Advisor. In each of August, September, October, November and December 2022, the Advisor elected to receive shares of Class A common stock in lieu of cash in respect of its management fee. We issued 15,586, 18,899, 18,285, 19,320 and 24,744 shares (adjusted for the Reverse Stock Split), respectively. Since February of 2023 the advisor has been paid its fees in cash. For the full year ended December 31, 2022 in connection with the monthly base management fee earned by the Advisor, an aggregate of 129,671 shares were issued (including those issued in the three months ended March 31, 2022).

We continue to focus on increasing occupancy of the portfolio by seeking new and replacement tenants for leases that expired or otherwise have been terminated. We believe that certain market tenant incentives we have used and expect to continue to use, including free rent periods and tenant improvements, will support our occupancy rate and extend the average duration of our leases upon commencement of executed leases. These incentives may delay or reduce cash flow for some period. Our ability to generate net cash from our property operations depends, in part on the amount of additional cash we can generate through new or renewal leases, which is not assured, and on our ability to access any excess cash we are able to generate from properties that are encumbered by mortgages where a cash trap event has occurred (see below for more details), which also is not assured.

Dividend Policy

Through the six months ended June 30, 2022, we paid dividends to our common stockholders at our current annual rate of \$3.20 per share of Class A common stock (adjusted for the Reverse Stock Split), or \$0.80 per share (adjusted for the Reverse Stock Split) on a quarterly basis. The board subsequently decided not to declare any further distributions. There is no assurance as to when or if the board will declare future dividends or the amount of any future dividends that may be declared.

Mortgage Loans

We have six mortgage loans secured by seven of our eight properties with an aggregate balance of \$399.5 million as of June 30, 2023 with a weighted-average effective interest rate of 4.35%. All our mortgage loans bear interest at a fixed rate, except for a mortgage loan agreement secured by Capital One N.A. that has terms now based on SOFR for which we have a related derivative agreement for a "pay-fixed" swap which effectively converts the loan to a fixed rate. We do not have any scheduled principal payments due on our mortgage notes payable during the remainder of the year ending December 31, 2023.

The loan secured by Nine Times Square in the principal amount of \$49.5 million matures in April 2024. We are presently reviewing options including extending or refinancing the loan. This loan bears interest at a rate equal to 3.72% per annum.

We do not currently have a commitment for a corporate-level revolving credit facility or any other corporate-level indebtedness, and there can be no assurance we would be able to obtain corporate-level financing on favorable terms, or at all. Our only asset that is not serving as collateral for a mortgage is 421 W. 54th Street - Hit Factory, which is unoccupied and therefore unlikely to be accepted as collateral for a new mortgage loan. See “Acquisitions and Dispositions” section below for further detail on this property. We do not currently anticipate incurring additional indebtedness secured by our existing properties, however, despite a tightening of the credit markets, we expect to be able to continue to use debt financing as a source of capital especially if we acquire additional properties.

1140 Avenue of the Americas

We breached both a debt service coverage provision and a reserve fund provision under its non-recourse mortgage secured by the 1140 Avenue of the Americas property in each of the last 12 quarters ended June 30, 2023. The principal amount of the loan was \$99.0 million as of June 30, 2023. These breaches are not events of default, rather they require excess cash, if any, generated at the property (after paying operating costs, debt service and capital/tenant replacement reserves) to be held in a segregated account as additional collateral under the loan. The covenants for this loan may be cured if we satisfy the required debt service coverage ratio for two consecutive quarters, whereupon the additional collateral will be released. We can remain subject to this reserve requirement through maturity of the loan without further penalty or ramifications. As of June 30, 2023 and December 31, 2022 we had \$2.3 million and \$3.6 million, respectively, in cash that is retained by the lender and maintained in restricted cash on our consolidated balance sheet as of those dates.

8713 Fifth Avenue

We breached a debt service coverage ratio covenant under the non-recourse mortgage secured by 8713 Fifth Avenue in each of the last 12 quarters ended June 30, 2023. The principal amount for the loan was \$10.0 million as of June 30, 2023. The breach of this covenant did not result in an event of default but rather triggered an excess cash flow sweep period. We have the ability to avoid the excess cash flow sweep period by electing to fund a reserve in the amount of \$125,000 of additional collateral in cash or as a letter of credit. As of the date of filing this Quarterly Report on Form 10-Q, we had not yet determined whether we will do so. If we do not elect to continue to fund the \$125,000 additional collateral in a subsequent quarter, then the excess flow sweep period would commence in such quarter and continue until the covenant breaches are cured in accordance with the terms of the loan agreement. Additionally, in the event that the debt service coverage ratio covenant remains in breach at or below the current level for two consecutive calendar quarters and the lender reasonably determines that such breach is due to the property not being prudently managed by the current manager, the lender has the right, but not the obligation, to require that we replace the current manager with a third party manager chosen by us. This property did not generate any excess cash since the breach occurred and thus no cash has ever been trapped related to this property. We signed a lease with a new tenant at this property in November 2021, and began occupying a portion of the leased space in the quarter ended March 31, 2023 and is expected to occupy the remainder of the space in the fourth quarter of 2023, which will bring the occupancy to 100.0%. We anticipate complying with the debt service coverage ratio under the non-recourse mortgage once the space is occupied.

Other Information

We entered into one new lease at 9 Times Square representing over 8,700 square feet during the three months ended June 30, 2023. We are also working to increase the rental income at our other properties that are not fully occupied. There can be no assurance, however, that we will be able to lease all or any portion of the vacant space at any property on acceptable or favorable terms, or at all, or that we will not experience further terminations. Unless we are able to increase the occupancy at 1140 Avenue of the Americas and 8713 Fifth Avenue on terms that allow us to cure the two remaining covenant breaches described above, we will be unable to access excess cash flow from those properties and the lenders may be able to exercise additional remedies.

Any cash that is restricted for the remaining breaches on 1140 Avenue of the Americas and 8713 Fifth Avenue mortgages (as disclosed above) are not available to be used for other corporate purposes. There is no assurance that we will be able to cure these breaches. Moreover, if we experience additional lease terminations, due to tenant bankruptcies or otherwise, or tenants placed on a cash basis continue to not pay rent, it is possible that certain of the covenants on other loans may be breached and we may also become restricted from accessing excess cash flows from those properties. Except as described herein, we were in compliance with the remaining covenants under our mortgage notes payable as of June 30, 2023.

Leasing Activity/Occupancy

We had an increase in occupancy level of 85.1% across our portfolio as of June 30, 2023, as compared to 82.7% as of December 31, 2022. Even though overall occupancy did not change materially, the changes in occupancy were as follows:

- Occupancy at 9 Times Square increased to 68.0% as of June 30, 2023, compared to 61.9% as of December 31, 2022. The increase was due to two new leases signed during the six months ended June 30, 2023.

- Occupancy at 123 William Street increased to 92.0% as of June 30, 2023 compared to 91.4% as of December 31, 2022. The increase was due to the signing of two new leases and one termination during the six months ended June 30, 2023.
- Occupancy at 1140 Avenue of the Americas increased to 74.6% as of June 30, 2023, compared to 70.9% as of December 31, 2022. The increase was due to three new leases signed during the six months ended June 30, 2023.
- Occupancy at 8713 Fifth Avenue increased to 88.6% as of June 30, 2023, compared to 57.1% as of December 31, 2022. The increase was due to two new lease signed during the six months ended June 30, 2023. We signed a lease with a new tenant at this property in November 2021, and began occupying a portion of the leased space in the quarter ended March 31, 2023 and is expected to occupy the remainder of the space in the fourth quarter of the year ending December 31, 2023, which will bring the occupancy to 100.0%.

Capital Expenditures

For the six months ended June 30, 2023, we funded an aggregate of \$2.8 million of capital expenditures primarily related to tenant and building improvements at 123 William Street, 9 Times Square 1140 Avenue of the Americas, and 8713 Fifth Avenue. We may invest in additional capital expenditures to further enhance the value of our properties. Additionally, many of our lease agreements with tenants include provisions for tenant improvement allowances. The amount we invest in capital expenditures during the full year ending December 31, 2023, including amounts we expect to fund under new or replacement leases, and we expect the amount invested will be similar to the year ended December 31, 2022, or may be higher if management deems necessary. We funded our capital expenditures during the three months ended June 30, 2023 with cash on hand consisting of proceeds from previous offerings/financings and, cash retained from the Advisor by electing to receive shares of our Class A common stock in lieu of cash for its base management fee for January 2023. The economic uncertainty created by the COVID-19 global pandemic has impacted and could continue to impact our decisions on the amount and timing of future capital expenditures.

Acquisitions and Dispositions

We had no acquisitions or dispositions during the three months ended June 30, 2023.

We are evaluating our options for our 421 W. 54th Street — Hit Factory property, which include potentially selling or leasing the property to a third party. We have not, however, entered into an agreement to sell this property which, therefore, does not qualify to be classified as held for sale on our consolidated balance sheet as of June 30, 2023. The sole tenant terminated its lease early and vacated the space during the quarter ended June 30, 2018.

Non-GAAP Financial Measures

This section discusses the non-GAAP financial measures we use to evaluate our performance, including Funds from Operations (“FFO”), Core Funds from Operations (“Core FFO”) and Cash Net Operating Income (“Cash NOI”). A description of these non-GAAP measures and reconciliations to the most directly comparable GAAP measure, which is net income (loss), is provided below.

In December 2022 we announced that that we changed our business strategy and terminated our election to be taxed as a REIT effective January 1, 2023. However, our business and operations have not materially changed in the quarter ended June 30, 2023 since we did not make new investments. Therefore, we did not change any of the non-GAAP metrics that we have historically used to evaluate performance.

Funds from Operations and Core Funds from Operations

Funds from Operations

Due to certain unique operating characteristics of real estate companies, as discussed below, the National Association of Real Estate Investment Trusts (“NAREIT”), an industry trade group, has promulgated a performance measure known as FFO, which we believe to be an appropriate supplemental measure to reflect the operating performance of a company with a business similar to our current business. FFO is not equivalent to net income or loss as determined under GAAP.

We calculate FFO, a non-GAAP measure, consistent with the standards established over time by the Board of Governors of NAREIT, as restated in a White Paper and approved by the Board of Governors of NAREIT effective in December 2018 (the “White Paper”). The White Paper defines FFO as net income or loss computed in accordance with GAAP, excluding depreciation and amortization related to real estate, gains and losses from sales of certain real estate assets, gain and losses from change in control and impairment write-downs of certain real estate assets and investments in entities when the impairment is directly attributable to decreases in the value of depreciable real estate held by the entity. Adjustments for consolidated partially-owned entities (including our OP) and equity in earnings of unconsolidated affiliates are made to arrive at our proportionate share of FFO attributable to our stockholders. Our FFO calculation complies with NAREIT’s definition.

The historical accounting convention used for real estate assets requires straight-line depreciation of buildings and improvements, and straight-line amortization of intangibles, which implies that the value of a real estate asset diminishes

predictably over time. We believe that, because real estate values historically rise and fall with market conditions, including inflation, interest rates, unemployment and consumer spending, presentations of operating results for a company with a business similar to our current business using historical accounting for depreciation and certain other items may be less informative. Historical accounting for real estate involves the use of GAAP. Any other method of accounting for real estate such as the fair value method cannot be construed to be any more accurate or relevant than the comparable methodologies of real estate valuation found in GAAP. Nevertheless, we believe that the use of FFO, which excludes the impact of real estate related depreciation and amortization, among other things, provides a more complete understanding of our performance to investors and to management, and when compared year over year, reflects the impact on our operations from trends in occupancy rates, rental rates, operating costs, general and administrative expenses, and interest costs, which may not be immediately apparent from net income.

Core Funds from Operations

Beginning in the quarter ended September 30, 2020, following the listing of our Class A common stock on the NYSE, we began presenting Core FFO, also a non-GAAP metric. We have presented prior periods on a comparable basis so that the metric is useful to the users of our financial statements. We believe that Core FFO is utilized by other publicly-traded companies with businesses similar to our current business, although Core FFO presented by us may not be comparable to Core FFO reported by other companies that define Core FFO differently. In calculating Core FFO, we start with FFO, then we exclude the impact of discrete non-operating transactions and other events which we do not consider representative of the comparable operating results of our real estate operating portfolio, which is our core business platform. Specific examples of discrete non-operating items include acquisition and transaction related costs for dead deals, debt extinguishment costs, non-cash equity-based compensation and costs incurred for the 2022 contested proxy that were specifically related to the portion of our 2022 proxy contest. We add back non-cash write-offs of deferred financing costs and prepayment penalties incurred with the early extinguishment of debt which are included in net income but are considered financing cash flows when paid in the statement of cash flows. We consider these write-offs and prepayment penalties to be capital transactions and not indicative of normal operating performance. Further, we do not consider the costs associated with the 2022 contested proxy, while paid in cash, to be indicative of normal operating performance. By excluding expensed acquisition and transaction dead deal costs as well as non-operating costs described above, we believe Core FFO provides useful supplemental information that is comparable for each type of real estate investment and is consistent with management's analysis of the investing and operating performance of our properties. In future periods, we may also exclude other items from Core FFO that we believe may help investors compare our operating performance results.

The table below reflects the items deducted or added to net loss in our calculation of FFO and Core FFO for the periods presented.

(In thousands)	Three Months Ended June 30,		Six Months Ended June 30,	
	2023	2022	2023	2022
Net loss attributable to common stockholders (in accordance with GAAP)	\$ (10,899)	\$ (13,001)	\$ (22,657)	\$ (24,713)
Impairment of real estate investments	151	—	151	—
Depreciation and amortization	6,749	7,041	13,701	14,022
FFO (deficit) (As defined by NAREIT) attributable to common stockholders	(3,999)	(5,960)	(8,805)	(10,691)
Acquisition and transaction related	—	—	—	—
Equity-based compensation ⁽¹⁾	2,304	2,201	4,504	4,321
Expenses attributable to portion of 2022 proxy contest ⁽²⁾	—	2,084	—	2,477
Core FFO (deficit) attributable to common stockholders	<u>\$ (1,695)</u>	<u>\$ (1,675)</u>	<u>\$ (4,301)</u>	<u>\$ (3,893)</u>

⁽¹⁾ Includes expense related to the amortization of our restricted common shares and LTIP Units related to its multi-year outperformance agreement for all periods presented. Management has not added back the cost of the base management fee elected to be received by the Advisor in shares in lieu of cash or the Advisor's base management fee used by the Advisor under the Side Letter to purchase shares because such amounts are considered a normal operating expense. Such amounts included in net loss were \$0.5 million and \$2.3 million for the six months ended June 30, 2023 and 2022, respectively.

⁽²⁾ Amount relates to costs incurred for the 2022 proxy that were specifically related to the portion of the 2022 proxy contest. We do not consider these expenses to be part of our normal operating performance and has, accordingly, increased its Core FFO for this amount.

Cash Net Operating Income

Cash NOI is a non-GAAP financial measure equal to net income (loss), the most directly comparable GAAP financial measure, less income from investment securities and interest, plus general and administrative expenses, acquisition and transaction-related expenses, depreciation and amortization, other non-cash expenses and interest expense. In calculating Cash NOI, we also eliminate the effects of straight-lining of rent and the amortization of above- and below-market leases. Cash NOI should not be considered an alternative to net income (loss) as an indication of our performance or to cash flows as a measure of our liquidity.

We use Cash NOI internally as a performance measure and believe Cash NOI provides useful information to investors regarding our results of operations because it reflects only those income and expense items that are incurred at the property level. Therefore, we believe Cash NOI is a useful measure for evaluating the operating performance of our real estate assets and to make decisions about resource allocations. Further, we believe Cash NOI is useful to investors as performance measures because, when compared across periods, Cash NOI reflects the impact on operations from trends in occupancy rates, rental rates, operating costs and acquisition activity on an unlevered basis. Cash NOI excludes certain components from net income in order to provide results that are more closely related to a property's results of operations. For example, interest expense is not linked to the operating performance of a real estate asset and Cash NOI is not affected by whether the financing is at the property level or corporate level. In addition, depreciation and amortization, because of historical cost accounting and useful life estimates, may distort operating performance at the property level. Cash NOI presented by us may not be comparable to Cash NOI reported by other companies that may define Cash NOI differently. We believe that in order to facilitate a clear understanding of our operating results, Cash NOI should be examined in conjunction with net income (loss) as presented in our consolidated financial statements.

The table below reflects the items deducted or added to net loss in our calculation of Cash NOI for the periods presented:

(In thousands)	Three Months Ended June 30,		Six Months Ended June 30,	
	2023	2022	2023	2022
Net loss (in accordance with GAAP)	\$ (10,899)	\$ (13,001)	\$ (22,657)	\$ (24,713)
Depreciation and amortization	6,749	7,041	13,701	14,022
Interest expense	4,707	4,703	9,370	9,418
Impairment of real estate investments	151	—	151	—
Equity-based compensation	2,304	2,201	4,504	4,321
Other expense	(10)	(2)	(19)	35
Asset and property management fees to related parties	1,988	1,785	3,872	3,707
General and administrative	2,439	5,175	5,620	8,161
Accretion of below- and amortization of above-market lease liabilities and assets, net	(45)	(50)	(9)	(101)
Straight-line rent (revenue as a lessor)	120	(930)	(84)	(2,233)
Straight-line ground rent (expense as lessee)	27	27	54	54
Cash NOI	\$ 7,531	\$ 6,949	\$ 14,503	\$ 12,671

Dividends

As noted above, we have not paid dividends to stockholders since those that were declared and paid through the six months ended June 30, 2022.

Decisions regarding the frequency and amount of any future dividends we pay on our Class A common stock are entirely at the discretion of our board of directors. Our ability to pay dividends in the future will depend on our ability to operate profitably and to generate sufficient cash flows from the operations. We cannot guarantee that we will be able to pay dividends on a regular basis on our Class A common stock or any other class or series of stock we may issue in the future. There is no assurance we will reinstitute the payment dividends at the previous rate, or at all. The amount of dividends we may pay to our stockholders is determined by our board of directors based on several factors, including funds available for dividends, our financial condition, provisions in our loans and any agreement we are party to that may restrict our ability to pay dividends or repurchase shares, capital expenditure requirements, as applicable, and requirements of Maryland law.

Previous Election as a REIT

We elected to be taxed as a REIT, effective commencing with our taxable year ended December 31, 2014. Our board subsequently authorized the termination of our REIT election which became effective on January 1, 2023. We believe that during the taxable year ended December 31, 2014 through December 31, 2022, we were organized and operated in a manner so that we qualified as a REIT. To qualify as a REIT during that period, we were required to distribute annually at least 90% of our REIT taxable income (which does not equal net income as calculated in accordance with GAAP) determined without regard for the deduction for dividends paid and excluding net capital gains and comply with several other organizational and operational requirements. As a REIT, we were generally not be subject to U.S. federal corporate income tax on the portion of our REIT taxable income that we distributed to our stockholders. A tax loss for a particular year eliminated the need to distribute REIT taxable income to meet the 90% distribution requirement for that year and minimized or eliminated the need to pay distributions to meet the distribution requirement in one or more subsequent years. We had a loss for tax purposes in the year ending December 31, 2022 and therefore there was no REIT taxable income requiring distribution to maintain our qualification as a REIT for the year ended December 31, 2022.

Inflation

We may be adversely impacted by inflation on the leases that do not contain indexed escalation provisions, or those leases which have escalations at rates which do not exceed or approximate current inflation rates. As of June 30, 2023, the increase to the 12-month CPI for all items, as published by the Bureau of Labor Statistics, was 3.0%. To help mitigate the adverse impact of inflation, approximately 85% of our leases with our tenants contain rent escalation provisions which increase the cash rent that is due under these leases over time by an average cumulative increase of 2.1% per year. These provisions generally increase rental rates during the terms of the leases either at fixed rates or other measures. As of June 30, 2023, based on straight-line rent, approximately 85% are fixed rate, scheduled escalation increases recorded on a straight-line basis, and 15% do not contain any escalation provisions.

In addition, we may be required to pay costs for maintenance and operation of properties which may adversely impact our results of operations due to potential increases in costs and operating expenses resulting from inflation. Currently, the impact of inflation has had an immaterial impact to operating costs. However, to the extent such costs exceed the tenants base year, certain but not all of our leases require the tenant to pay its allocable share of operating expenses, which may include common area maintenance costs, real estate taxes and insurance. This may reduce our exposure to increases in costs and operating expenses resulting from inflation. As the costs of general goods and services continue to rise, we may be adversely impacted by increases in general and administrative costs due to overall inflation.

Related-Party Transactions and Agreements

See [Note 9](#) — *Related Party Transactions and Arrangements* to our consolidated financial statements in this Quarterly Report on Form 10-Q for further discussion.

Off-Balance Sheet Arrangements

We have no off-balance sheet arrangements that have had or are reasonably likely to have a current or future effect on our financial condition, changes in financial condition, revenues or expenses, results of operations, liquidity, capital expenditures or capital resources that are material to investors.

Item 3. Quantitative and Qualitative Disclosures About Market Risk.

There has been no material change in our exposure to market risk during the six months ended June 30, 2023. For a discussion of our exposure to market risk, refer to Item 7A, "Quantitative and Qualitative Disclosures about Market Risk," contained in our Annual Report on Form 10-K for the fiscal year ended December 31, 2022.

Item 4. Controls and Procedures.

In accordance with Rules 13a-15(b) and 15d-15(b) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), our management, under the supervision and with the participation of our Chief Executive Officer and Chief Financial Officer, carried out an evaluation of the effectiveness of our disclosure controls and procedures (as defined in Rule 13a-15(e) and Rule 15d-15(e) of the Exchange Act) as of June 30, 2023, the end of the period covered by this Quarterly Report on Form 10-Q. Based on such evaluation, our Chief Executive Officer and Chief Financial Officer have concluded that as of June 30, 2023, our disclosure controls and procedures are effective in recording, processing, summarizing and reporting, on a timely basis, information required to be disclosed by us in our reports that we file or submit under the Exchange Act.

No change occurred in our internal control over financial reporting (as defined in Rule 13a-15(f) and 15d-15(f) of the Exchange Act) during the three months ended June 30, 2023 that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

PART II — OTHER INFORMATION

Item 1. Legal Proceedings.

As of the end of the period covered by this Quarterly Report on Form 10-Q, we are not a party to any material pending legal proceedings.

Item 1A. Risk Factors.

There have been no material changes to the risk factors disclosed in Part I, Item 1A. "Risk Factors" of our Annual Report on Form 10-K for the year ended December 31, 2022, and we direct your attention to those risk factors.

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds.

Recent Sales of Unregistered Securities

None.

Use of Proceeds from Sales of Registered Securities

None.

Purchases of Equity Securities by the Issuer and Affiliated Purchasers

None.

Item 3. Defaults Upon Senior Securities.

None.

Item 4. Mine Safety Disclosures.

Not applicable.

Item 5. Other Information.

Effective August 8, 2023, the Company's board of directors approved the Second Amended and Restated Bylaws. The revisions to the Second Amended and Restated Bylaws include changes to Article II, Section 1 to, among other things, make changes to Article II, Section 11 to address procedural issues related to the universal proxy rules as set forth in Rule 14a-19 under the Exchange Act of 1934, including (i) requiring representations and notifications regarding compliance with the requirements of Rule 14a-19, (ii) prohibiting additional or substitute nominations following the expiration of the nomination period, (iii) designating the white proxy card for exclusive use by the Company, and (iv) updating other requirements for valid nominations and clarifying the treatment of defective nominations.

This description of the Second Amended and Restated Bylaws is qualified in its entirety by reference to the complete text of the Second Amended and Restated Bylaws, a copy of which is filed herewith as Exhibit 3.14 to this Quarterly Report on Form 10-Q.

Item 6. Exhibits.

The following exhibits are included, or incorporated by reference, in this Quarterly Report on Form 10-Q for the three months ended June 30, 2023 (and are numbered in accordance with Item 601 of Regulation S-K).

EXHIBITS INDEX

Exhibit No.	Description
3.1 ⁽¹⁾	Articles of Amendment and Restatement
3.2 ⁽²⁾	Articles of Amendment relating to corporate name change
3.3 ⁽¹⁾	Amended and Restated Bylaws of New York City REIT, Inc.
3.4 ⁽³⁾	Amendment to Amended and Restated Bylaws of New York City REIT, Inc.
3.5 ⁽⁷⁾	Second Amendment to Amended and Restated Bylaws of New York City REIT, Inc.
3.6 ⁽⁴⁾	Articles of Amendment relating to reverse stock split
3.7 ⁽⁴⁾	Articles of Amendment relating to par value decrease and common stock name change
3.8 ⁽⁴⁾	Articles Supplementary classifying and designating Class B common stock
3.9 ⁽⁵⁾	Articles Supplementary classifying and designating Series A Preferred Stock
3.10 ⁽⁶⁾	Articles Supplementary reclassifying Class B common stock into Class A common stock
3.11 ⁽⁸⁾	Articles of Amendment relating to Reverse Stock Split (2023)
3.12 ⁽⁸⁾	Articles of Amendment relating to par value decrease (2023)
3.13 ⁽⁹⁾	Articles of Amendment relating to name change (2023)
3.14 *	Second Amended and Restated Bylaws of American Strategic Investment Co.
4.1 ⁽⁹⁾	Third Amendment, dated as of January 23, 2023, to the Amended and Restated Rights Agreement, as amended by Amendment No. 1, dated August 12, 2021, and Amendment No. 2, dated August 10, 2022, between American Strategic Investment Co. and Computershare Trust Company, N.A. as Rights Agent
4.2 ⁽⁹⁾	Certificate of Notice of American Strategic Investment Co.
31.1 *	Certification of the Principal Executive Officer of the Company pursuant to Securities Exchange Act Rule 13a-14(a) or 15d-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
31.2 *	Certification of the Principal Financial Officer of the Company pursuant to Securities Exchange Act Rule 13a-14(a) or 15d-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
32 *	Written statements of the Principal Executive Officer and Principal Financial Officer of the Company pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
101.INS *	Inline XBRL Instance Document - the instance document does not appear in the Interactive Data File because its XBRL tags are embedded within the Inline XBRL document.
101.SCH *	Inline XBRL Taxonomy Extension Schema Document.
101.CAL *	Inline XBRL Taxonomy Extension Calculation Linkbase Document.
101.DEF *	Inline XBRL Taxonomy Extension Definition Linkbase Document.
101.LAB *	Inline XBRL Taxonomy Extension Label Linkbase Document.
101.PRE *	Inline XBRL Taxonomy Extension Presentation Linkbase Document.
104 *	Cover Page Interactive Data File - the cover page interactive data file does not appear in the Interactive Data File because its XBRL tags are embedded within the Inline XBRL document.

* Filed herewith

(1) Filed as an exhibit to our Quarterly Report on Form 10-Q filed with the SEC on August 14, 2018.

(2) Filed as an exhibit to our Annual Report on Form 10-K filed with the SEC on March 15, 2019.

(3) Filed as an exhibit to our Current Report on Form 8-K filed with the SEC on May 19, 2020.

(4) Filed as an exhibit to our Current Report on Form 8-K filed with the SEC on August 5, 2020.

(5) Filed as an exhibit to our Current Report on Form 8-K filed with the SEC on August 18, 2020.

(6) Filed as an exhibit to our Annual Report on Form 10-K filed with the SEC on March 18, 2022.

(7) Filed as an exhibit to our Current Report on Form 8-K filed with the SEC on July 19, 2022.

(8) Filed as an exhibit to our Form 8-K filed with the SEC on January 12, 2023.

(9) Filed as an exhibit to our Form 8-K filed with the SEC on January 24, 2023.

SIGNATURES

Pursuant to the requirements 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.

AMERICAN STRATEGIC INVESTMENT CO.

By: _____ /s/ Edward M. Weil, Jr.
Edward M. Weil, Jr.
*Executive Chairman, Chief Executive Officer, President and Secretary
(Principal Executive Officer)*

By: _____ /s/ Christopher J. Masterson
Christopher J. Masterson
*Chief Financial Officer and Treasurer
(Principal Financial Officer and Principal Accounting Officer)*

Dated: August 11, 2023

**AMERICAN STRATEGIC INVESTMENT CO.
SECOND AMENDED AND RESTATED BYLAWS**

ARTICLE I

OFFICES

Section 1. *PRINCIPAL OFFICE.* The principal office of the Corporation in the State of Maryland shall be located at such place as the Board of Directors may from time to time designate.

Section 2. *ADDITIONAL OFFICES.* The Corporation may have additional offices, including a principal executive office, at such places as the Board of Directors may from time to time determine or the business of the Corporation may require.

ARTICLE II

MEETINGS OF STOCKHOLDERS

Section 1. *PLACE.* All meetings of stockholders shall be held at the principal executive office of the Corporation or at such other place as shall be set in accordance with these Bylaws and stated in the notice of the meeting. The Board of Directors may determine that a meeting not be held at any place, but instead may be held partially or solely by means of remote communication. In accordance with these Bylaws and subject to any guidelines and procedures adopted by the Board of Directors, stockholders and proxy holders may participate in any meeting of stockholders held by means of remote communication and may vote at such meeting as permitted by Maryland law. Participation in a meeting by these means constitutes presence in person at the meeting.

Section 2. *ANNUAL MEETING.* An annual meeting of stockholders for the election of directors and the transaction of any business within the powers of the Corporation shall be held on the date and at the time and place set by the Board of Directors.

Section 3. *SPECIAL MEETINGS.*

(a) *General.* Each of the chairman of the board, chief executive officer, president and Board of Directors may call a special meeting of stockholders. Except as provided in subsection (b)(4) of this Section 3, a special meeting of stockholders shall be held on the date and at the time and place set by the chairman of the board, chief executive officer, president or Board of Directors, whoever has called the meeting. Subject to subsection (b) of this Section 3, a special meeting of stockholders shall also be called by the secretary of the Corporation to act on any matter that may properly be considered at a meeting of stockholders upon the written request of stockholders entitled to cast not less than a majority of all the votes entitled to be cast on such matter at such meeting.

(b) *Stockholder-Requested Special Meetings.*

(1) Any stockholder of record seeking to have stockholders request a special meeting shall, by sending written notice to the secretary (the "Record Date Request Notice") by registered mail, return receipt requested, request the Board of Directors to fix a record date to determine the stockholders entitled to request a special meeting (the "Request Record Date"). The Record Date Request Notice shall set forth the purpose of the meeting and the matters

proposed to be acted on at it, shall be signed by one or more stockholders of record as of the date of signature (or their agents duly authorized in a writing accompanying the Record Date Request Notice), shall bear the date of signature of each such stockholder (or such agent) and shall set forth all information relating to each such stockholder and each matter proposed to be acted on at the meeting that would be required to be disclosed in connection with the solicitation of proxies for the election of directors in an election contest (even if an election contest is not involved), or would otherwise be required in connection with such a solicitation, in each case pursuant to Regulation 14A (or any successor provision) under the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder (the "Exchange Act"). Upon receiving the Record Date Request Notice, the Board of Directors may fix a Request Record Date. The Request Record Date shall not precede and shall not be more than ten days after the close of business on the date on which the resolution fixing the Request Record Date is adopted by the Board of Directors. If the Board of Directors, within ten days after the date on which a valid Record Date Request Notice is received, fails to adopt a resolution fixing the Request Record Date, the Request Record Date shall be the close of business on the tenth day after the first date on which a Record Date Request Notice is received by the secretary.

(2) In order for any stockholder to request a special meeting to act on any matter that may properly be considered at a meeting of stockholders, one or more written requests for a special meeting (collectively, the "Special Meeting Request") signed by stockholders of record (or their agents duly authorized in a writing accompanying the request) as of the Request Record Date entitled to cast not less than a majority of all of the votes entitled to be cast on such matter at such meeting (the "Special Meeting Percentage") shall be delivered to the secretary. In addition, the Special Meeting Request shall (a) set forth the purpose of the meeting and the matters proposed to be acted on at it (which shall be limited to those lawful matters set forth in the Record Date Request Notice received by the secretary), (b) bear the date of signature of each such stockholder (or such agent) signing the Special Meeting Request, (c) set forth (i) the name and address, as they appear in the Corporation's books, of each stockholder signing such request (or on whose behalf the Special Meeting Request is signed), (ii) the class, series and number of all shares of stock of the Corporation which are owned (beneficially or of record) by each such stockholder and (iii) the nominee holder for, and number of, shares of stock of the Corporation owned beneficially but not of record by such stockholder, (d) be sent to the secretary by registered mail, return receipt requested, and (e) be received by the secretary within 60 days after the Request Record Date. Any requesting stockholder (or agent duly authorized in a writing accompanying the revocation of the Special Meeting Request) may revoke his, her or its request for a special meeting at any time by written revocation delivered to the secretary.

(3) The secretary shall inform the requesting stockholders of the reasonably estimated cost of preparing and mailing or delivering the notice of the meeting (including the Corporation's proxy materials). The secretary shall not be required to call a special meeting upon stockholder request and such meeting shall not be held unless, in addition to the documents required by paragraph (2) of this Section 3(b), the secretary receives payment of such reasonably estimated cost prior to the preparation and mailing or delivery of such notice of the meeting.

(4) In the case of any special meeting called by the secretary upon the request of stockholders (a "Stockholder-Requested Meeting"), such meeting shall be held at such place, date and time as may be designated by the Board of Directors; *provided*, however, that the date of any Stockholder-Requested Meeting shall be not more than ninety (90) days after the record date for such meeting (the "Meeting Record Date"); and *provided further* that if the Board of Directors fails to designate, within ten days after the date that a valid Special Meeting Request is actually received by the secretary (the "Delivery Date"), a date and time for a Stockholder-Requested Meeting, then such meeting shall be held at 2:00 p.m., local time, on the 90th day after the Meeting Record Date or, if such 90th day is not a Business Day (as defined below), on the first preceding Business Day; and *provided further* that in the event that the Board of Directors

fails to designate a place for a Stockholder-Requested Meeting within ten days after the Delivery Date, then such meeting shall be held at the principal executive office of the Corporation. In fixing a date for a Stockholder-Requested Meeting, the Board of Directors may consider such factors as it deems relevant, including, without limitation, the nature of the matters to be considered, the facts and circumstances surrounding any request for the meeting and any plan of the Board of Directors to call an annual meeting or a special meeting. In the case of any Stockholder-Requested Meeting, if the Board of Directors fails to fix a Meeting Record Date that is a date within thirty (30) days after the Delivery Date, then the close of business on the 30th day after the Delivery Date shall be the Meeting Record Date. The Board of Directors may revoke the notice for any Stockholder-Requested Meeting in the event that the requesting stockholders fail to comply with the provisions of paragraph (3) of this Section 3(b).

(5) If written revocations of the Special Meeting Request have been delivered to the secretary and the result is that stockholders of record (or their agents duly authorized in writing), as of the Request Record Date, entitled to cast less than the Special Meeting Percentage have delivered, and not revoked, requests for a special meeting on the matter to the secretary: (i) if the notice of meeting has not already been delivered, the secretary shall refrain from delivering the notice of the meeting and send to all requesting stockholders who have not revoked such requests written notice of any revocation of a request for a special meeting on the matter, or (ii) if the notice of meeting has been delivered and if the secretary first sends to all requesting stockholders who have not revoked requests for a special meeting on the matter written notice of any revocation of a request for the special meeting and written notice of the Corporation's intention to revoke the notice of the meeting or for the chairman of the meeting to adjourn the meeting without action on the matter, (A) the secretary may revoke the notice of the meeting at any time before ten days before the commencement of the meeting or (B) the chairman of the meeting may call the meeting to order and adjourn the meeting from time to time without acting on the matter. Any request for a special meeting received after a revocation by the secretary of a notice of a meeting shall be considered a request for a new special meeting.

(6) The chairman of the board, chief executive officer, president or Board of Directors may appoint regionally or nationally recognized independent inspectors of elections to act as the agent of the Corporation for the purpose of promptly performing a ministerial review of the validity of any purported Special Meeting Request received by the secretary. For the purpose of permitting the inspectors to perform such review, no such purported Special Meeting Request shall be deemed to have been received by the secretary until the earlier of (i) five Business Days after actual receipt by the secretary of such purported request and (ii) such date as the independent inspectors certify to the Corporation that the valid requests received by the secretary represent, as of the Request Record Date, stockholders of record entitled to cast not less than the Special Meeting Percentage. Nothing contained in this paragraph (6) shall in any way be construed to suggest or imply that the Corporation or any stockholder shall not be entitled to contest the validity of any request, whether during or after such five Business Day period, or to take any other action (including, without limitation, the commencement, prosecution or defense of any litigation with respect thereto, and the seeking of injunctive relief in such litigation).

(7) For purposes of these Bylaws, "Business Day" shall mean any day other than a Saturday, a Sunday or a day on which banking institutions in the State of New York are authorized or obligated by law or executive order to close.

Section 4. *NOTICE*. Not less than ten (10) nor more than ninety (90) days before each meeting of stockholders, the secretary shall give to each stockholder entitled to vote at such meeting and to each stockholder not entitled to vote who is entitled to notice of the meeting notice in writing or by electronic transmission stating the time and place of the meeting and, in the case of a special meeting or as otherwise may be required by any statute, the purpose for which the meeting is called, by mail, by presenting it to such stockholder personally, by leaving

it at the stockholder's residence or usual place of business, by electronic transmission or by any other means permitted by Maryland law. If mailed, such notice shall be deemed to be given when deposited in the United States mail addressed to the stockholder at the stockholder's address as it appears on the records of the Corporation, with postage thereon prepaid. If transmitted electronically, such notice shall be deemed to be given when transmitted to the stockholder by an electronic transmission to any address or number of the stockholder at which the stockholder receives electronic transmissions. The Corporation may give a single notice to all stockholders who share an address, which single notice shall be effective as to any stockholder at such address, unless such stockholder objects to receiving such single notice or revokes a prior consent to receiving such single notice. Failure to give notice of any meeting to one or more stockholders, or any irregularity in such notice, shall not affect the validity of any meeting fixed in accordance with this Article II or the validity of any proceedings at any such meeting.

Subject to Section 11(a) of this Article II, any business of the Corporation may be transacted at an annual meeting of stockholders without being specifically designated in the notice, except such business as is required by any statute to be stated in such notice. No business shall be transacted at a special meeting of stockholders except as specifically designated in the notice. The Corporation may postpone or cancel a meeting of stockholders by making a public announcement (as defined in Section 11(c)(4) of this Article II) of such postponement or cancellation prior to the meeting. Notice of the date, time and place to which the meeting is postponed shall be given not less than ten (10) days prior to such date and otherwise in the manner set forth in this Section 4.

Section 5. *ORGANIZATION AND CONDUCT.* Every meeting of stockholders shall be conducted by an individual appointed by the Board of Directors to be chairman of the meeting or, in the absence of such appointment or appointed individual, by the chairman of the board or, in the case of a vacancy in the office or absence of the chairman of the board, by one of the following individuals present at the meeting in the following order: the vice chairman of the board, if there is one, the chief executive officer, the president, the vice presidents in their order of rank and, within each rank, in their order of seniority, the secretary or, in the absence of such officers, a chairman chosen by the stockholders by the vote of a majority of the votes cast by stockholders present in person or by proxy. The secretary or, in the case of a vacancy in the office or absence of the secretary, an assistant secretary or, in the absence of both the secretary and all assistant secretaries, an individual appointed by the Board of Directors or, in the absence of such appointment or appointed individuals, an individual appointed by the chairman of the meeting shall act as secretary. In the event that the secretary presides at a meeting of stockholders, an assistant secretary or, in the absence of all assistant secretaries, an individual appointed by the Board of Directors or the chairman of the meeting, shall record the minutes of the meeting. Even if present, the individual holding the office named herein may delegate to another individual the power to act as chairman or secretary of the meeting. The order of business and all other matters of procedure at any meeting of stockholders shall be determined by the chairman of the meeting. The chairman of the meeting may prescribe such rules, regulations and procedures and take such action as, in the discretion of the chairman and without any action by the stockholders, are appropriate for the proper conduct of the meeting, including, without limitation, (a) restricting admission to the time set for the commencement of the meeting; (b) limiting attendance or participation at the meeting to stockholders of record of the Corporation, their duly authorized proxies and such other individuals as the chairman of the meeting may determine; (c) recognizing speakers and determining when and how long speakers and any individual speaker may address the meeting; (d) determining when and for how long the polls should be opened and when the polls should be closed and when announcement of the results should be made; (e) maintaining order and security at the meeting; (f) removing any stockholder or any other individual who refuses to comply with meeting procedures, rules or guidelines as set forth by the chairman of the meeting; (g) concluding a meeting or recessing or adjourning the meeting, whether or not a quorum is present, to a later date and time and at a place either (i)

announced at the meeting or (ii) provided at a future time through means announced at the meeting; and (h) complying with any state and local laws and regulations concerning safety and security. Unless otherwise determined by the chairman of the meeting, meetings of stockholders shall not be required to be held in accordance with any rules of parliamentary procedure.

Section 6. *QUORUM*. At any meeting of stockholders, the presence in person or by proxy of stockholders entitled to cast a majority of all the votes entitled to be cast at such meeting on any matter shall constitute a quorum; but this section shall not affect any requirement under any statute or the charter of the Corporation (the "Charter") for the vote necessary for the approval of any matter. If such quorum is not established at any meeting of the stockholders, the chairman of the meeting may adjourn the meeting *sine die* or from time to time to a date not more than 120 days after the original record date without notice other than announcement at the meeting. The date, time and place of the meeting, as reconvened, shall be either (a) announced at the meeting or (b) provided at a future time through means announced at the meeting. At such adjourned meeting at which a quorum shall be present, any business may be transacted which might have been transacted at the meeting as originally convened.

The stockholders present either in person or by proxy, at a meeting which has been duly called and at which a quorum has been established, may continue to transact business until adjournment, notwithstanding the withdrawal from the meeting of enough stockholders to leave fewer than would be required to establish a quorum.

Section 7. *VOTING*. A plurality of all the votes cast at a meeting of stockholders duly called and at which a quorum is present shall be sufficient to elect a director. Each share entitles the holder thereof to vote for as many individuals as there are directors to be elected and for whose election the holder is entitled to vote. A majority of the votes cast at a meeting of stockholders duly called and at which a quorum is present shall be sufficient to approve any other matter which may properly come before the meeting, unless more than a majority of the votes cast is required by statute or by the Charter. Unless otherwise provided by statute or by the Charter, each outstanding share of stock, regardless of class, entitles the holder thereof to cast one (1) vote on each matter submitted to a vote at a meeting of stockholders. Voting on any question or in any election may be *viva voce* unless the chairman of the meeting shall order that voting be by ballot or otherwise.

Section 8. *PROXIES*. A holder of record of shares of stock of the Corporation may cast votes in person or by proxy that is (a) executed by the stockholder or by the stockholder's duly authorized agent in any manner permitted by applicable law, (b) compliant with Maryland law and these Bylaws and (c) filed in accordance with the procedures established by the Corporation. Such proxy or evidence of authorization of such proxy shall be filed with the record of the proceedings of the meeting. No proxy shall be valid more than eleven (11) months after its date unless otherwise provided in the proxy.

Any stockholder directly or indirectly soliciting proxies from other stockholders must use a proxy card color other than white, which shall be reserved for the exclusive use by the Board of Directors.

Section 9. *VOTING OF STOCK BY CERTAIN HOLDERS* Stock of the Corporation registered in the name of a corporation, limited liability company, partnership, joint venture, trust or other entity, if entitled to be voted, may be voted by the president or a vice president, managing member, manager, general partner or trustee thereof, as the case may be, or a proxy appointed by any of the foregoing individuals, unless some other person who has been appointed to vote such stock pursuant to a bylaw or a resolution of the governing body of such corporation or other entity or agreement of the partners of a partnership presents a certified copy of such bylaw, resolution or agreement, in which case such person may vote such stock. Any trustee or

fiduciary, in such capacity, may vote stock registered in such trustee's or fiduciary's name, either in person or by proxy.

Shares of stock of the Corporation directly or indirectly owned by it shall not be voted at any meeting and shall not be counted in determining the total number of outstanding shares entitled to be voted at any given time, unless they are held by it in a fiduciary capacity, in which case they may be voted and shall be counted in determining the total number of outstanding shares at any given time.

The Board of Directors may adopt by resolution a procedure by which a stockholder may certify in writing to the Corporation that any shares of stock registered in the name of the stockholder are held for the account of a specified person other than the stockholder. The resolution shall set forth the class of stockholders who may make the certification, the purpose for which the certification may be made, the form of certification and the information to be contained in it; if the certification is with respect to a record date, the time after the record date within which the certification must be received by the Corporation; and any other provisions with respect to the procedure which the Board of Directors considers necessary or appropriate. On receipt by the secretary of the Corporation of such certification, the person specified in the certification shall be regarded as, for the purposes set forth in the certification, the holder of record of the specified stock in place of the stockholder who makes the certification.

Section 10. *INSPECTORS.* The Board of Directors or the chairman of the meeting may appoint, before or at the meeting, one or more inspectors for the meeting and any successor to the inspector. Except as otherwise provided by the chairman of the meeting, the inspectors, if any, shall (i) determine the number of shares of stock represented at the meeting, in person or by proxy, and the validity and effect of proxies, (ii) receive and tabulate all votes, ballots or consents, (iii) report such tabulation to the chairman of the meeting, (iv) hear and determine all challenges and questions arising in connection with the right to vote, and (v) do such acts as are proper to fairly conduct the election or vote. Each such report shall be in writing and signed by the inspector or by a majority of them if there is more than one (1) inspector acting at such meeting. If there is more than one (1) inspector, the report of a majority shall be the report of the inspectors. The report of the inspector or inspectors on the number of shares represented at the meeting and the results of the voting shall be *prima facie* evidence thereof.

Section 11. *ADVANCE NOTICE OF STOCKHOLDER NOMINEES FOR DIRECTOR AND OTHER STOCKHOLDER PROPOSALS.*

(a) *Annual Meetings of Stockholders.*

(1) Nominations of individuals for election to the Board of Directors and proposals of other business to be considered by the stockholders may be made at an annual meeting of stockholders only (i) pursuant to the Corporation's notice of meeting, (ii) by or at the direction of the Board of Directors or (iii) by any stockholder of the Corporation who was a stockholder of record at the record date set by the Board of Directors for the purpose of determining stockholders entitled to vote at the annual meeting, at the time of giving of notice by the stockholder as provided for in this Section 11(a) and at the time of the annual meeting (and any postponement or adjournment thereof), who is entitled to vote at the meeting in the election of each individual so nominated or on any such other business and who has complied with this Section 11(a).

(2) For any nomination or other business to be properly brought before an annual meeting by a stockholder pursuant to clause (iii) of paragraph (a)(1) of this Section 11, the stockholder must have given timely notice thereof in writing to the secretary of the Corporation and any such other business must otherwise be a proper matter for action by the

stockholders. To be timely, a stockholder's notice shall set forth all information and representations required under this Section 11 and shall be delivered to the secretary at the principal executive office of the Corporation not earlier than the 150th day nor later than 5:00 p.m., Eastern Time, on the 120th day prior to the first anniversary of the date of the proxy statement (as defined in Section 11(c)(4) of this Article II) for the preceding year's annual meeting; provided, however, that in the event that the date of the annual meeting is advanced or delayed by more than thirty (30) days from the first anniversary of the date of the preceding year's annual meeting, notice by the stockholder to be timely must be so delivered not earlier than the 150th day prior to the date of such annual meeting and not later than 5:00 p.m., Eastern Time, on the later of the 120th day prior to the date of such annual meeting, as originally convened, or the tenth day following the day on which public announcement of the date of such meeting is first made. The postponement or adjournment of an annual meeting (or the public announcement thereof) shall not commence a new time period (or extend any time period) for the giving of a stockholder's notice as described above.

(3) Such stockholder's notice shall set forth:

(i) as to each individual whom the stockholder proposes to nominate for election or reelection as a director (each, a "Proposed Nominee"), all information relating to the Proposed Nominee that would be required to be disclosed in connection with the solicitation of proxies for the election of the Proposed Nominee as a director in an election contest (even if an election contest is not involved), or would otherwise be required in connection with such solicitation, in each case pursuant to Regulation 14A (or any successor provision) under the Exchange Act (including the Proposed Nominee's written consent to being named in the proxy statement as a nominee and to serving as a director if elected);

(ii) as to any other business that the stockholder proposes to bring before the meeting, (A) a description of such business (including the text of any proposal), the stockholder's reasons for proposing such business at the meeting and any material interest in such business of such stockholder or any Stockholder Associated Person (as defined below), individually or in the aggregate, including any anticipated benefit to the stockholder or the Stockholder Associated Person therefrom and (B) any other information relating to such business that would be required to be disclosed in a proxy statement or other filing required to be made in connection with solicitations of proxies in support of the business proposed to be brought before the meeting pursuant to Regulation 14A (or any successor provision) of the Exchange Act;

(iii) as to the stockholder giving the notice, any Proposed Nominee and any Stockholder Associated Person,

(A) the class, series and number of all shares of stock or other securities of the Corporation or any affiliate thereof (collectively, the "Company Securities"), if any, which are owned (beneficially or of record) by such stockholder, Proposed Nominee or Stockholder Associated Person, the date on which each such Company Security was acquired and the investment intent of such acquisition, and any short interest (including any opportunity to profit or share in any benefit from any decrease in the price of such stock or other security) in any Company Securities of any such person,

(B) the nominee holder for, and number of, any Company Securities owned beneficially but not of record by such stockholder, Proposed Nominee or Stockholder Associated Person,

(C) whether and the extent to which such stockholder, Proposed Nominee or Stockholder Associated Person, directly or indirectly (through brokers, nominees or otherwise), is subject to or during the last six (6) months has engaged in any hedging, derivative

or other transaction or series of transactions or entered into any other agreement, arrangement or understanding (including any short interest, any borrowing or lending of securities or any proxy or voting agreement), the effect or intent of which is to (I) manage risk or benefit of changes in the price of (x) Company Securities or (y) any security of any entity that was listed in the Peer Group in the Stock Performance Graph in the most recent annual report to security holders of the Corporation (a "Peer Group Company") for such stockholder, Proposed Nominee or Stockholder Associated Person or (II) increase or decrease the voting power of such stockholder, Proposed Nominee or Stockholder Associated Person in the Corporation or any affiliate thereof (or, as applicable, in any Peer Group Company) disproportionately to such person's economic interest in the Company Securities (or, as applicable, in any Peer Group Company) and

(D) any substantial interest, direct or indirect (including, without limitation, any existing or prospective commercial, business or contractual relationship with the Corporation), by security holdings or otherwise, of such stockholder, Proposed Nominee or Stockholder Associated Person, in the Corporation or any affiliate thereof, other than an interest arising from the ownership of Company Securities where such stockholder, Proposed Nominee or Stockholder Associated Person receives no extra or special benefit not shared on a *pro rata* basis by all other holders of the same class or series;

(iv) as to the stockholder giving the notice, any Stockholder Associated Person with an interest or ownership referred to in clauses (ii) or (iii) of this paragraph (3) of this Section 11(a) and any Proposed Nominee,

(A) the name and address of such stockholder, as they appear on the Corporation's stock ledger, and the current name and address, if different, of each such Stockholder Associated Person and any Proposed Nominee and

(B) the investment strategy or objective, if any, of such stockholder and each such Stockholder Associated Person who is not an individual and a copy of the prospectus, offering memorandum or similar document, if any, provided to investors or potential investors in such stockholder and each such Stockholder Associated Person;

(v) the name and address of any person who contacted or was contacted by the stockholder giving the notice or any Stockholder Associated Person about the Proposed Nominee or other business proposal;

(vi) to the extent known by the stockholder giving the notice, the name and address of any other person supporting the nominee for election or reelection as a director or the proposal of other business;

(vii) if the stockholder is proposing one or more Proposed Nominees, a representation that such stockholder, any Proposed Nominee or any Stockholder Associated Person intends or is part of a group which intends to solicit the holders of shares of stock of the Corporation representing at least 67% of the voting power of shares of stock entitled to vote on the election of directors in support of each Proposed Nominee in accordance with Rule 14a-19 of the Exchange Act; and

(viii) all other information regarding the stockholder giving the notice and each Stockholder Associated Person that would be required to be disclosed by the stockholder in connection with the solicitation of proxies for the election of directors in an election contest (even if an election contest is not involved), or would otherwise be required in connection with such a solicitation, in each case pursuant to Regulation 14A (or any successor provision) under the Exchange Act.

(4) Such stockholder's notice shall, with respect to any Proposed Nominee, be accompanied by:

(i) a written representation executed by the Proposed Nominee

(A) that such Proposed Nominee (I) is not, and will not become, a party to any agreement, arrangement or understanding with any person or entity other than the Corporation in connection with service or action as a director that has not been disclosed to the Corporation, (II) consents to be named in a proxy statement as a nominee, (III) consents to serve as a director of the Corporation if elected, (IV) will notify the Corporation simultaneously with the notification to any stockholder of the Proposed Nominee's actual or potential unwillingness or inability to serve as a director and (V) does not need any permission or consent from any third party (including any employer or any other board or governing body on which such Proposed Nominee serves) to serve as a director of the Corporation, if elected, that has not been obtained,

(B) attaching copies of any and all requisite permissions or consents and

(C) attaching a completed Proposed Nominee questionnaire (which questionnaire shall be provided by the Corporation, upon request, to the stockholder providing the notice, and shall include all information relating to the Proposed Nominee that would be required to be disclosed in connection with the solicitation of proxies for the election of the Proposed Nominee as a director in an election contest (even if an election contest is not involved), or would otherwise be required in connection with such solicitation, in each case pursuant to Regulation 14A (or any successor provision) under the Exchange Act and the rules thereunder, or would be required pursuant to the rules of any national securities exchange on which any securities of the Corporation are listed or over-the-counter market on which any securities of the Corporation are traded) and

(ii) a written representation executed by the stockholder that such stockholder will:

(A) comply with Rule 14a-19 promulgated under the Exchange Act in connection with such stockholder's solicitation of proxies in support of any Proposed Nominee,

(B) notify the Corporation as promptly as practicable of any determination by the stockholder to no longer solicit proxies for the election of any Proposed Nominee as a director at the annual meeting,

(C) furnish such other or additional information as the Corporation may request for the purpose of determining whether the requirements of this Section 11 have been satisfied or of evaluating any nomination or other business described in the stockholder's notice and

(D) appear in person or by proxy at the meeting to present each Proposed Nominee or to bring such business before the meeting, as applicable, and acknowledging that if the stockholder does not so appear in person or by proxy at the meeting to present each Proposed Nominee or bring such business before the meeting, as applicable, the Corporation need not bring such Proposed Nominee or such business for a vote at such meeting and any proxies or votes cast in favor of the election of any Proposed Nominee or any proposal related to such other business need not be counted or considered.

(5) Notwithstanding anything in this subsection (a) of this Section 11 to the contrary, in the event that the number of directors to be elected to the Board of Directors is increased, and there is no public announcement of such action at least 130 days prior to the first anniversary of the date of the proxy statement (as defined in Section 11(c)(4) of this Article II) for the preceding year's annual meeting, a stockholder's notice required by clause (iii) of paragraph (a)(1) of this Section 11 shall also be considered timely, but only with respect to nominees for any new positions created by such increase, if it shall be delivered to the secretary at the principal executive office of the Corporation not later than 5:00 p.m., Eastern Time, on the tenth day following the day on which such public announcement is first made by the Corporation.

(6) For purposes of this Section 11, "Stockholder Associated Person" of any stockholder shall mean (i) any person acting in concert with such stockholder or another Stockholder Associated Person or who is otherwise a participant (as defined in Instruction 3 to Item 4 of Schedule 14A under the Exchange Act) in any solicitation of proxies, (ii) any beneficial owner of shares of stock of the Corporation owned of record or beneficially by such stockholder (other than a stockholder that is a depositary) and (iii) any person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such stockholder or such Stockholder Associated Person.

(b) *Special Meetings of Stockholders.* Only such business shall be conducted at a special meeting of stockholders as shall have been brought before the meeting pursuant to the Corporation's notice of meeting. No stockholder may make a proposal of other business to be considered at a special meeting or, except as contemplated by and in accordance with the next two sentences of this Section 11(b), nominate an individual for election to the Board of Directors at a special meeting. Nominations of individuals for election to the Board of Directors may be made at a special meeting of stockholders at which directors are to be elected only (i) by or at the direction of the Board of Directors or (ii) provided that the special meeting has been called in accordance with Section 3(a) of this Article II for the purpose of electing directors, by any stockholder of the Corporation who is a stockholder of record at the record date set by the Board of Directors for the purpose of determining stockholders entitled to vote at the special meeting, at the time of giving of notice provided for in this Section 11 and at the time of the special meeting (and any postponement or adjournment thereof), who is entitled to vote at the meeting in the election of each individual so nominated and who has complied with the notice procedures set forth in this Section 11. In the event the Corporation calls a special meeting of stockholders for the purpose of electing one (1) or more individuals to the Board of Directors, any stockholder may nominate an individual or individuals (as the case may be) for election as a director as specified in the Corporation's notice of meeting, if the stockholder's notice, containing the information and representations required by paragraphs (a)(3) and (4) of this Section 11, is delivered to the secretary at the principal executive office of the Corporation not earlier than the 120th day prior to such special meeting and not later than 5:00 p.m., Eastern Time, on the later of the 90th day prior to such special meeting or the tenth day following the day on which public announcement is first made of the date of the special meeting. The postponement or adjournment of a special meeting (or a public announcement thereof) shall not commence a new time period (or extend any time period) for the giving of a stockholder's notice as described above.

(c) *General.*

(1) If any information or representation submitted pursuant to this Section 11 by any stockholder proposing a nominee for election as a director or any proposal for other business at a meeting of stockholders, including any information or representation from a Proposed Nominee, shall be inaccurate in any material respect, such information or representation may be deemed not to have been provided in accordance with this Section 11. Any such stockholder shall notify the Corporation of any inaccuracy or change (within two (2) Business Days of

becoming aware of such inaccuracy or change) in any such information or representation. Upon written request by the secretary or the Board of Directors, any stockholder or Proposed Nominee shall provide, within five (5) Business Days of delivery of such request (or such other period as may be specified in such request), (A) written verification, satisfactory, in the discretion of the Board of Directors or any authorized officer of the Corporation, to demonstrate the accuracy of any information submitted by the stockholder pursuant to this Section 11, (B) a written update of any information (including, if requested by the Corporation, written confirmation by such stockholder that it continues to intend to bring such nomination or other business proposal before the meeting and, if applicable, satisfy the requirements of Rule 14a-19(a)(3) under the Exchange Act) submitted by the stockholder pursuant to this Section 11 as of an earlier date and (C) an updated representation by each Proposed Nominee that such individual will serve as a director of the Corporation if elected. If a stockholder or Proposed Nominee fails to provide such written verification, update or representation within such period, the information as to which such written verification, update or representation was requested may be deemed not to have been provided in accordance with this Section 11.

(2) Only such individuals who are nominated in accordance with this Section 11 shall be eligible for election by stockholders as directors, and only such business shall be conducted at a meeting of stockholders as shall have been brought before the meeting in accordance with this Section 11. A stockholder proposing a Proposed Nominee shall have no right to (i) nominate a number of Proposed Nominees that exceeds the number of directors to be elected at the meeting or (ii) substitute or replace any Proposed Nominee unless such substitute or replacement is nominated in accordance with this Section 11 (including the timely provision of all information and representations with respect to such substitute or replacement Proposed Nominee in accordance with the deadlines set forth in this Section 11). If the Corporation provides notice to a stockholder that the number of Proposed Nominees proposed by such stockholder exceeds the number of directors to be elected at a meeting, the stockholder must provide written notice to the Corporation within five Business Days stating the names of the Proposed Nominees that have been withdrawn so that the number of Proposed Nominees proposed by such stockholder no longer exceeds the number of directors to be elected at a meeting. If any individual who is nominated in accordance with this Section 11 becomes unwilling or unable to serve on the Board of Directors, then the nomination with respect to such individual shall no longer be valid and no votes may validly be cast for such individual. The chairman of the meeting shall have the power to determine whether a nomination or any other business proposed to be brought before the meeting was made or proposed, as the case may be, in accordance with this Section 11.

(3) Notwithstanding the foregoing provisions of this Section 11, the Corporation shall disregard any proxy authority granted in favor of, or votes for, director nominees other than the Corporation's nominees if the stockholder or Stockholder Associated Person (each, a "Soliciting Stockholder") soliciting proxies in support of such director nominees abandons the solicitation or does not (i) comply with Rule 14a-19 promulgated under the Exchange Act, including any failure by the Soliciting Stockholder to (A) provide the Corporation with any notices required thereunder in a timely manner or (B) comply with the requirements of Rule 14a-19(a)(2) and Rule 14a-19(a)(3) promulgated under the Exchange Act, or (ii) timely provide evidence in accordance with the following sentence that is sufficient, in the discretion of the Board of Directors, to demonstrate that such Soliciting Stockholder has met the requirements of Rule 14a-19(a)(3) promulgated under the Exchange Act. Upon request by the Corporation, such Soliciting Stockholder shall deliver to the Corporation, no later than five Business Days prior to the applicable meeting of stockholders, evidence that is sufficient, in the discretion of the Board of Directors, to demonstrate that such Soliciting Stockholder has met the requirements of Rule 14a-19(a)(3) promulgated under the Exchange Act.

(4) For purposes of this Section 11, "the date of the proxy statement" shall have the same meaning as "the date of the company's proxy statement released to shareholders" as used in Rule 14a-8(e) promulgated under the Exchange Act, as interpreted by the United States Securities and Exchange Commission from time to time. "Public announcement" shall mean disclosure in (i) a press release reported by the Dow Jones News Service, Associated Press, Business Wire, PR Newswire or other widely circulated news or wire service or (ii) a document publicly filed by the Corporation with the United States Securities and Exchange Commission pursuant to the Exchange Act.

(5) Notwithstanding the foregoing provisions of this Section 11, a stockholder shall also comply with all applicable requirements of state law and of the Exchange Act and the rules and regulations thereunder with respect to the matters set forth in this Section 11. Nothing in this Section 11 shall be deemed to affect any right of a stockholder to request inclusion of a proposal in, or the right of the Corporation to omit a proposal from, any proxy statement filed by the Corporation with the United States Securities and Exchange Commission pursuant to Rule 14a-8 (or any successor provision) under the Exchange Act. Nothing in this Section 11 shall require disclosure of revocable proxies received by, or routine solicitation contacts made by or on behalf of, the stockholder or Stockholder Associated Person pursuant to a solicitation of proxies after the filing of a definitive proxy statement on Schedule 14A by such stockholder or Stockholder Associated Person.

(6) Notwithstanding anything in these Bylaws to the contrary, except as otherwise determined by the chairman of the meeting, if the stockholder giving notice as provided for in this Section 11 does not appear in person or by proxy at such annual or special meeting to present each nominee for election as a director or the proposed business, as applicable, such matter shall not be considered at the meeting.

Section 12. *STOCKHOLDERS' CONSENT IN LIEU OF MEETING.* Any action required or permitted to be taken at any meeting of stockholders may be taken without a meeting if a unanimous consent setting forth the action is given in writing or by electronic transmission by each stockholder entitled to vote on the matter and filed with the minutes of proceedings of the stockholders.

Section 13. *CONTROL SHARE ACQUISITION ACT.* Notwithstanding any other provision of the Charter or these Bylaws, Title 3, Subtitle 7 of the Maryland General Corporation Law (the "MGCL") (or any successor statute) shall not apply to any acquisition by any person of shares of stock of the Corporation. This section may be repealed, in whole or in part, at any time, whether before or after an acquisition of control shares and, upon such repeal, may, to the extent provided by any successor bylaw, apply to any prior or subsequent control share acquisition.

ARTICLE III

DIRECTORS

Section 1. *GENERAL POWERS.* The business and affairs of the Corporation shall be managed under the direction of the Board of Directors.

Section 2. *NUMBER, TENURE, QUALIFICATION AND RESIGNATION.* A majority of the entire Board of Directors may establish, increase or decrease the number of directors, provided that the number thereof shall never be less than the minimum number required by the MGCL, nor more than fifteen (15), and further provided that the tenure of office of a director shall not be affected by any decrease in the number of directors. At any time that the number of directors comprising the Board of Directors is less than five, one director shall be a managing director, as defined in this section. At any time that the number of directors comprising the Board

of Directors is five or more, up to two directors shall be managing directors; provided, however, that if only one managing director is identified by the Corporation's advisor (currently, New York City Advisors, LLC) (the "Advisor"), the Board of Directors will include one managing director. If at any time the Board of Directors does not include the number of managing directors required under this section, the Board of Directors shall take all action necessary to cure such condition. To qualify for nomination or election as a director, an individual at the time of nomination and election shall meet the qualifications of an independent director or a managing director, as the case may be, depending on the position for which such individual may be nominated or elected. An "independent director" shall mean an individual who meets the qualifications of an independent director set forth in the Corporate Governance Guidelines of the Corporation, as amended from time to time. A "managing director" shall mean an individual identified by the Advisor or, in the absence of such identification, the individual then serving as the chief executive officer of the Corporation shall constitute a managing director. Any director of the Corporation may resign at any time by delivering his or her resignation to the Board of Directors, the chairman of the board or the secretary. Any resignation shall take effect immediately upon its receipt or at such later time specified in the resignation. The acceptance of a resignation shall not be necessary to make it effective unless otherwise stated in the resignation.

Section 3. *ANNUAL AND REGULAR MEETINGS.* An annual meeting of the Board of Directors may be held at such time and place as shall be specified in a notice given as hereinafter provided for special meetings of the Board of Directors. The Board of Directors may provide, by resolution, the time and place of regular meetings of the Board of Directors without other notice than such resolution.

Section 4. *SPECIAL MEETINGS.* Special meetings of the Board of Directors may be called by or at the request of the chairman of the board, the chief executive officer, the president or a majority of the directors then in office. The person or persons authorized to call special meetings of the Board of Directors may fix the time and place of any special meeting of the Board of Directors called by them. The Board of Directors may provide, by resolution, the time and place of special meetings of the Board of Directors without other notice than such resolution.

Section 5. *NOTICE.* Notice of any special meeting of the Board of Directors shall be delivered personally or by telephone, electronic mail, facsimile transmission, courier or United States mail to each director at his or her business or residence address. Notice by personal delivery, telephone, electronic mail or facsimile transmission shall be given at least twenty-four (24) hours prior to the meeting. Notice by United States mail shall be given at least three (3) days prior to the meeting. Notice by courier shall be given at least two (2) days prior to the meeting. Telephone notice shall be deemed to be given when the director or his or her agent is personally given such notice in a telephone call to which the director or his or her agent is a party. Electronic mail notice shall be deemed to be given upon transmission of the message to the electronic mail address given to the Corporation by the director. Facsimile transmission notice shall be deemed to be given upon completion of the transmission of the message to the number given to the Corporation by the director and receipt of a completed answer-back indicating receipt. Notice by United States mail shall be deemed to be given when deposited in the United States mail properly addressed, with postage thereon prepaid. Notice by courier shall be deemed to be given when deposited with or delivered to a courier properly addressed. Neither the business to be transacted at, nor the purpose of, any annual, regular or special meeting of the Board of Directors need be stated in the notice, unless specifically required by statute or these Bylaws.

Section 6. *QUORUM.* A majority of the directors shall constitute a quorum for the transaction of business at any meeting of the Board of Directors, provided that, if less than a majority of such directors is present at such meeting, a majority of the directors present may

adjourn the meeting from time to time without further notice, and provided further that if, pursuant to applicable law, the Charter or these Bylaws, the vote of a majority or other percentage of a specified group of directors is required for action, a quorum must also include a majority or such other percentage of such group.

The directors present at a meeting which has been duly called and at which a quorum has been established may continue to transact business until adjournment, notwithstanding the withdrawal from the meeting of enough directors to leave fewer than required to establish a quorum.

Section 7. *VOTING*. The action of a majority of the directors present at a meeting at which a quorum is present shall be the action of the Board of Directors, unless the concurrence of a greater proportion is required for such action by applicable law, the Charter or these Bylaws. If enough directors have withdrawn from a meeting to leave fewer than required to establish a quorum but the meeting is not adjourned, the action of the majority of that number of directors necessary to constitute a quorum at such meeting shall be the action of the Board of Directors, unless the concurrence of a greater proportion is required for such action by applicable law, the Charter or these Bylaws.

Section 8. *ORGANIZATION*. At each meeting of the Board of Directors, the chairman of the board or, in the absence of the chairman, the vice chairman of the board, if any, shall act as chairman of the meeting. Even if present at the meeting, such director may designate another director to act as chairman of the meeting. In the absence of both the chairman and vice chairman of the board, the chief executive officer or, in the absence of the chief executive officer, the president or, in the absence of the president, a director chosen by a majority of the directors present shall act as chairman of the meeting. The secretary or, in his or her absence, an assistant secretary of the Corporation or, in the absence of the secretary and all assistant secretaries, an individual appointed by the chairman of the meeting shall act as secretary of the meeting.

Section 9. *MEETINGS BY REMOTE COMMUNICATION*. Directors may participate in a meeting by means of a conference telephone or other communications equipment if all persons participating in the meeting can hear each other at the same time. Participation in a meeting by these means shall constitute presence in person at the meeting.

Section 10. *CONSENT BY DIRECTORS WITHOUT A MEETING*. Any action required or permitted to be taken at any meeting of the Board of Directors may be taken without a meeting, if a consent in writing or by electronic transmission to such action is given by each director and is filed with the minutes of proceedings of the Board of Directors.

Section 11. *VACANCIES*. If for any reason any or all the directors cease to be directors, such event shall not terminate the Corporation or affect these Bylaws or the powers of the remaining directors hereunder. Except as may be provided by the Board of Directors in setting the terms of any class or series of preferred stock, any vacancy on the Board of Directors may be filled only by a majority of the remaining directors, even if the remaining directors do not constitute a quorum. Any director elected to fill a vacancy shall serve for the remainder of the full term of the directorship in which the vacancy occurred and until a successor is elected and qualifies.

Section 12. *COMPENSATION*. Directors shall not receive any stated salary for their services as directors but, by resolution of the Board of Directors, may receive compensation per year and/or per meeting and/or per visit to real property or other facilities owned or leased by the Corporation and for any service or activity they performed or engaged in as directors. Directors may be reimbursed for expenses of attendance, if any, at each annual, regular or special meeting of the Board of Directors or of any committee thereof and for their expenses, if any, in

connection with each property visit and any other service or activity they perform or engage in as directors; but nothing herein contained shall be construed to preclude any directors from serving the Corporation in any other capacity and receiving compensation therefor.

Section 13. *RELIANCE*. Each director and officer of the Corporation shall, in the performance of his or her duties with respect to the Corporation, be entitled to rely on any information, opinion, report or statement, including any financial statement or other financial data, prepared or presented by an officer or employee of the Corporation whom the director or officer reasonably believes to be reliable and competent in the matters presented, by a lawyer, certified public accountant or other person, as to a matter which the director or officer reasonably believes to be within the person's professional or expert competence, or with respect to a director, by a committee of the Board of Directors on which the director does not serve, as to a matter within its designated authority, if the director reasonably believes the committee to merit confidence.

Section 14. *RATIFICATION*. The Board of Directors or the stockholders may ratify any act, omission, failure to act or determination made not to act (an "Act") by the Corporation or its officers to the extent that the Board of Directors or the stockholders could have originally authorized the Act and, if so ratified, such Act shall have the same force and effect as if originally duly authorized, and such ratification shall be binding upon the Corporation and its stockholders. Any Act questioned in any proceeding on the ground of lack of authority, defective or irregular execution, adverse interest of a director, officer or stockholder, non-disclosure, miscomputation, the application of improper principles or practices of accounting or otherwise may be ratified, before or after judgment, by the Board of Directors or by the stockholders, and such ratification shall constitute a bar to any claim or execution of any judgment in respect of such questioned Act.

Section 15. *CERTAIN RIGHTS OF DIRECTORS AND OFFICERS*. A director who is not also an officer of the Corporation shall have no responsibility to devote his or her full time to the affairs of the Corporation. Any director or officer, in his or her personal capacity or in a capacity as an affiliate, employee or agent of any other person, or otherwise, may have business interests and engage in business activities similar to, in addition to or in competition with those of or relating to the Corporation.

Section 16. *EMERGENCY PROVISIONS*. Notwithstanding any other provision in the Charter or these Bylaws, this Section 16 shall apply during the existence of any catastrophe, or other similar emergency condition, as a result of which a quorum of the Board of Directors under Article III of these Bylaws cannot readily be obtained (an "Emergency"). During any Emergency, unless otherwise provided by the Board of Directors, (i) a meeting of the Board of Directors or a committee thereof may be called by any director or officer by any means feasible under the circumstances; (ii) notice of any meeting of the Board of Directors during such an Emergency may be given less than twenty-four (24) hours prior to the meeting to as many directors and by such means as may be feasible at the time, including publication, television or radio; and (iii) the number of directors necessary to constitute a quorum shall be one-third of the entire Board of Directors.

ARTICLE IV

COMMITTEES

Section 1. *NUMBER, TENURE AND QUALIFICATIONS*. The Board of Directors may appoint from among its members committees, composed of one (1) or more directors, to serve at the pleasure of the Board of Directors. In the absence of any member of any such committee, the

members thereof present at any meeting, whether or not they constitute a quorum, may appoint another director to act in the place of such absent member.

Section 2. *POWERS.* The Board of Directors may delegate to committees appointed under Section 1 of this Article IV any of the powers of the Board of Directors, except as prohibited by law. Except as may be otherwise provided by the Board of Directors, any committee may delegate some or all of its power and authority to one or more subcommittees, composed of one or more directors, as the committee deems appropriate in its sole discretion.

Section 3. *MEETINGS.* Notice of committee meetings shall be given in the same manner as notice for special meetings of the Board of Directors. A majority of the members of the committee shall constitute a quorum for the transaction of business at any meeting of the committee. The act of a majority of the committee members present at a meeting shall be the act of such committee. The Board of Directors or, in the absence of such designation, the applicable committee may designate a chairman of any committee, and such chairman or, in the absence of a chairman, any two (2) members of any committee (if there are at least two (2) members of the committee) may fix the time and place of its meeting unless the Board shall otherwise provide. Each committee shall keep minutes of its proceedings.

Section 4. *MEETINGS BY REMOTE COMMUNICATION.* Members of a committee of the Board of Directors may participate in a meeting by means of a conference telephone or other communications equipment if all persons participating in the meeting can hear each other at the same time. Participation in a meeting by these means shall constitute presence in person at the meeting.

Section 5. *CONSENT BY COMMITTEES WITHOUT A MEETING.* Any action required or permitted to be taken at any meeting of a committee of the Board of Directors may be taken without a meeting, if a consent in writing or by electronic transmission to such action is given by each member of the committee and is filed with the minutes of proceedings of such committee.

Section 6. *CHANGES.* Subject to the provisions hereof, the Board of Directors shall have the power at any time to change the membership of any committee, to appoint the chair of any committee, to fill any vacancy, to designate an alternate member to replace any absent or disqualified member, to dissolve any such committee or to withdraw or add to any powers previously delegated to a committee.

ARTICLE V

OFFICERS

Section 1. *GENERAL PROVISIONS.* The officers of the Corporation shall include a president, a secretary and a treasurer and may include a chairman of the board, a vice chairman of the board, a chief executive officer, one or more vice presidents, a chief operating officer, a chief financial officer, one or more assistant secretaries and one or more assistant treasurers. In addition, the Board of Directors may from time to time elect such other officers with such powers and duties as it shall deem necessary or appropriate. The officers of the Corporation shall be elected annually by the Board of Directors, except that the chief executive officer or president may from time to time appoint one or more vice presidents, assistant secretaries and assistant treasurers or other officers. Each officer shall serve until his or her successor is elected and qualifies or until his or her death, or his or her resignation or removal in the manner hereinafter provided. Any two (2) or more offices, except president and vice president, may be held by the same person. Election of an officer or agent shall not of itself create contract rights between the Corporation and such officer or agent.

Section 2. *REMOVAL AND RESIGNATION.* Any officer or agent of the Corporation may be removed, with or without cause, by the Board of Directors, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Any officer of the Corporation may resign at any time by delivering his or her resignation to the Board of Directors, the chairman of the board, the chief executive officer, the president or the secretary. Any resignation shall take effect immediately upon its receipt or at such later time specified in the resignation. The acceptance of a resignation shall not be necessary to make it effective unless otherwise stated in the resignation. Such resignation shall be without prejudice to the contract rights, if any, of the Corporation.

Section 3. *VACANCIES.* A vacancy in any office may be filled by the Board of Directors for the balance of the term.

Section 4. *CHIEF EXECUTIVE OFFICER.* The Board of Directors may designate a chief executive officer. In the absence of such designation, the chairman of the board shall be the chief executive officer of the Corporation. The chief executive officer shall have general responsibility for implementation of the policies of the Corporation, as determined by the Board of Directors, and for the management of the business and affairs of the Corporation. He or she may execute any deed, mortgage, bond, contract or other instrument, except in cases where the execution thereof shall be expressly delegated by the Board of Directors or by these Bylaws to some other officer or agent of the Corporation or shall be required by law to be otherwise executed; and in general shall perform all duties incident to the office of chief executive officer and such other duties as may be prescribed by the Board of Directors from time to time.

Section 5. *CHIEF OPERATING OFFICER.* The Board of Directors may designate a chief operating officer. The chief operating officer shall have the responsibilities and duties as determined by the Board of Directors or the chief executive officer.

Section 6. *CHIEF FINANCIAL OFFICER.* The Board of Directors may designate a chief financial officer. The chief financial officer shall have the responsibilities and duties as determined by the Board of Directors or the chief executive officer.

Section 7. *CHAIRMAN OF THE BOARD.* The Board of Directors may designate from among its members a chairman of the board, who shall not, solely by reason of these Bylaws, be an officer of the Corporation. The Board of Directors may designate the chairman of the board as an executive or non-executive chairman. The chairman of the board shall preside over the meetings of the Board of Directors. The chairman of the board shall perform such other duties as may be assigned to him or her by these Bylaws or the Board of Directors.

Section 8. *PRESIDENT.* In the absence of a chief executive officer, the president shall in general supervise and control all of the business and affairs of the Corporation. In the absence of a designation of a chief operating officer by the Board of Directors, the president shall be the chief operating officer. He or she may execute any deed, mortgage, bond, contract or other instrument, except in cases where the execution thereof shall be expressly delegated by the Board of Directors or by these Bylaws to some other officer or agent of the Corporation or shall be required by law to be otherwise executed; and in general shall perform all duties incident to the office of president and such other duties as may be prescribed by the Board of Directors from time to time.

Section 9. *VICE PRESIDENTS.* In the absence of the president or in the event of a vacancy in such office, the vice president (or in the event there be more than one (1) vice president, the vice presidents in the order designated at the time of their election or, in the absence of any designation, then in the order of their election) shall perform the duties of the president and when so acting shall have all the powers of and be subject to all the restrictions

upon the president; and shall perform such other duties as from time to time may be assigned to such vice president by the chief executive officer, the president or the Board of Directors. The Board of Directors may designate one (1) or more vice presidents as executive vice president, senior vice president or vice president for particular areas of responsibility.

Section 10. *SECRETARY*. The secretary shall (a) keep the minutes of the proceedings of the stockholders, the Board of Directors and committees of the Board of Directors in one (1) or more books provided for that purpose; (b) see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law; (c) be custodian of the corporate records and of the seal of the Corporation; (d) keep a register of the post office address of each stockholder which shall be furnished to the secretary by such stockholder; (e) have general charge of the stock transfer books of the Corporation; and (f) in general perform such other duties as from time to time may be assigned to him or her by the chief executive officer, the president or the Board of Directors.

Section 11. *TREASURER*. The treasurer shall have the custody of the funds and securities of the Corporation, keep full and accurate accounts of receipts and disbursements in books belonging to the Corporation, deposit all moneys and other valuable effects in the name and to the credit of the Corporation in such depositories as may be designated by the Board of Directors and in general perform such other duties as from time to time may be assigned to him or her by the chief executive officer, the president or the Board of Directors. In the absence of a designation of a chief financial officer by the Board of Directors, the treasurer shall be the chief financial officer of the Corporation.

The treasurer shall disburse the funds of the Corporation as may be ordered by the Board of Directors, taking proper vouchers for such disbursements, and shall render to the president and Board of Directors, at the regular meetings of the Board of Directors or whenever it may so require, an account of all his or her transactions as treasurer and of the financial condition of the Corporation.

Section 12. *ASSISTANT SECRETARIES AND ASSISTANT TREASURERS*. The assistant secretaries and assistant treasurers, in general, shall perform such duties as shall be assigned to them by the secretary or treasurer, respectively, or by the chief executive officer, the president or the Board of Directors.

Section 13. *COMPENSATION*. The compensation of the officers shall be fixed from time to time by or under the authority of the Board of Directors and no officer shall be prevented from receiving such compensation by reason of the fact that he or she is also a director.

ARTICLE VI

CONTRACTS, CHECKS AND DEPOSITS

Section 1. *CONTRACTS*. The Board of Directors may authorize any officer or agent to enter into any contract or to execute and deliver any instrument in the name of and on behalf of the Corporation and such authority may be general or confined to specific instances. Any agreement, deed, mortgage, lease or other document shall be valid and binding upon the Corporation when duly authorized or ratified by action of the Board of Directors and executed by an authorized person.

Section 2. *CHECKS AND DRAFTS*. All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Corporation shall be signed by such officer or agent of the Corporation in such manner as shall from time to time be determined by the Board of Directors.

Section 3. *DEPOSITS*. All funds of the Corporation not otherwise employed shall be deposited or invested from time to time to the credit of the Corporation as the Board of Directors, the chief executive officer, the president, the chief financial officer or any other officer designated by the Board of Directors may determine.

ARTICLE VII

STOCK

Section 1. *CERTIFICATES*. Except as may be otherwise provided by the Board of Directors or any officer of the Corporation, stockholders of the Corporation are not entitled to certificates representing the shares of stock held by them. In the event that the Corporation issues shares of stock represented by certificates, such certificates shall be in such form as prescribed by the Board of Directors or a duly authorized officer, shall contain the statements and information required by the MGCL and shall be signed by the officers of the Corporation in any manner permitted by the MGCL. In the event that the Corporation issues shares of stock without certificates, to the extent then required by the MGCL, the Corporation shall provide to the record holders of such shares a written statement of the information required by the MGCL to be included on stock certificates. There shall be no difference in the rights and obligations of stockholders based on whether or not their shares are represented by certificates.

Section 2. *TRANSFERS*. All transfers of shares of stock shall be made on the books of the Corporation in such manner as the Board of Directors or any officer of the Corporation may prescribe and, if such shares are certificated, upon surrender of certificates duly endorsed. The issuance of a new certificate upon the transfer of certificated shares is subject to the determination of the Board of Directors or an officer of the Corporation that such shares shall no longer be represented by certificates. Upon the transfer of any uncertificated shares, the Corporation shall provide to the record holders of such shares, to the extent then required by the MGCL, a written statement of the information required by the MGCL to be included on stock certificates.

The Corporation shall be entitled to treat the holder of record of any share of stock as the holder in fact thereof and, accordingly, shall not be bound to recognize any equitable or other claim to or interest in such share or on the part of any other person, whether or not it shall have express or other notice thereof, except as otherwise expressly provided by the laws of the State of Maryland.

Notwithstanding the foregoing, transfers of shares of any class or series of stock will be subject in all respects to the Charter and all of the terms and conditions contained therein.

Section 3. *REPLACEMENT CERTIFICATE*. Any officer of the Corporation may direct a new certificate or certificates to be issued in place of any certificate or certificates theretofore issued by the Corporation alleged to have been lost, destroyed, stolen or mutilated, upon the making of an affidavit of that fact by the person claiming the certificate to be lost, destroyed, stolen or mutilated; provided, however, if such shares have ceased to be certificated, no new certificate shall be issued unless requested in writing by such stockholder and the Board of Directors or an officer of the Corporation has determined that such certificates may be issued. Unless otherwise determined by an officer of the Corporation, the owner of such lost, destroyed, stolen or mutilated certificate or certificates, or his or her legal representative, shall be required, as a condition precedent to the issuance of a new certificate or certificates, to give the Corporation a bond in such sums as it may direct as indemnity against any claim that may be made against the Corporation.

Section 4. *FIXING OF RECORD DATE.* The Board of Directors may set, in advance, a record date for the purpose of determining stockholders entitled to notice of or to vote at any meeting of stockholders or determining stockholders entitled to receive payment of any dividend or the allotment of any other rights, or in order to make a determination of stockholders for any other proper purpose. Such record date, in any case, shall not be prior to the close of business on the day the record date is fixed and shall be not more than ninety (90) days and, in the case of a meeting of stockholders, not less than ten (10) days, before the date on which the meeting or particular action requiring such determination of stockholders of record is to be held or taken.

When a record date for the determination of stockholders entitled to notice of or to vote at any meeting of stockholders has been set as provided in this section, such record date shall continue to apply to the meeting if adjourned or postponed, except if the meeting is adjourned or postponed to a date more than 120 days after the record date originally fixed for the meeting, in which case a new record date for such meeting shall be determined as set forth herein.

Section 5. *STOCK LEDGER.* The Corporation shall maintain at its principal office or at the office of its counsel, accountants or transfer agent, an original or duplicate stock ledger containing the name and address of each stockholder and the number of shares of each class held by such stockholder.

Section 6. *FRACTIONAL STOCK; ISSUANCE OF UNITS.* The Board of Directors may authorize the Corporation to issue fractional shares of stock or authorize the issuance of scrip, all on such terms and under such conditions as it may determine. Notwithstanding any other provision of the Charter or these Bylaws, the Board of Directors may authorize the issuance of units consisting of different securities of the Corporation.

ARTICLE VIII

ACCOUNTING YEAR

The fiscal year of the Corporation shall end on December 31st of each calendar year, unless otherwise determined by the Board of Directors by a duly adopted resolution.

ARTICLE IX

DISTRIBUTIONS

Section 1. *AUTHORIZATION.* Dividends and other distributions upon the stock of the Corporation may be authorized by the Board of Directors, subject to the provisions of law and the Charter. Dividends and other distributions may be paid in cash, property or stock of the Corporation, subject to the provisions of law and the Charter.

Section 2. *CONTINGENCIES.* Before payment of any dividend or other distribution, there may be set aside out of any assets of the Corporation available for dividends or other distributions such sum or sums as the Board of Directors may from time to time, in its sole discretion, think proper as a reserve fund for contingencies, for equalizing dividends, for repairing or maintaining any property of the Corporation or for such other purpose as the Board of Directors shall determine, and the Board of Directors may modify or abolish any such reserve.

ARTICLE X

INVESTMENT POLICY

Subject to the provisions of the Charter, the Board of Directors may from time to time adopt, amend, revise or terminate any policy or policies with respect to investments by the Corporation as it shall deem appropriate in its sole discretion.

ARTICLE XI

SEAL

Section 1. *SEAL*. The Board of Directors may authorize the adoption of a seal by the Corporation. The seal shall contain the name of the Corporation and the year of its incorporation and the words "Incorporated Maryland." The Board of Directors may authorize one or more duplicate seals and provide for the custody thereof.

Section 2. *AFFIXING SEAL*. Whenever the Corporation is permitted or required to affix its seal to a document, it shall be sufficient to meet the requirements of any law, rule or regulation relating to a seal to place the word "(SEAL)" adjacent to the signature of the person authorized to execute the document on behalf of the Corporation.

ARTICLE XII

INDEMNIFICATION AND ADVANCE OF EXPENSES

To the maximum extent permitted by Maryland law in effect from time to time, the Corporation shall indemnify and, without requiring a preliminary determination of the ultimate entitlement to indemnification, shall pay or reimburse reasonable expenses in advance of final disposition of a proceeding to (a) any individual who is a present or former director or officer of the Corporation and who is made or threatened to be made a party to, or witness in, the proceeding by reason of his or her service in that capacity, (b) any individual who, while a director or officer of the Corporation and at the request of the Corporation, serves or has served as a director, officer, partner, member, manager or trustee of another corporation, real estate investment trust, partnership, limited liability company, joint venture, trust, employee benefit plan or other enterprise and who is made or threatened to be made a party to, or witness in, the proceeding by reason of his or her service in that capacity and (c) New York City Advisors, LLC and its affiliates from and against any claim, liability or expense to which they may become subject or which they may incur by reason of their service as advisor to the Corporation. The rights of a director or officer to indemnification and advance of expenses provided by the Charter and these Bylaws shall vest immediately upon election of such director or officer. The Corporation may, with the approval of its Board of Directors, provide such indemnification and advance for expenses to an individual who served a predecessor of the Corporation in any of the capacities described in (a) or (b) above and to any employee or agent of the Corporation or a predecessor of the Corporation or New York City Advisors, LLC. The indemnification and payment or reimbursement of expenses provided in these Bylaws shall not be deemed exclusive of or limit in any way other rights to which any person seeking indemnification or payment or reimbursement of expenses may be or may become entitled under any bylaw, resolution, insurance, agreement or otherwise.

Neither the amendment nor repeal of this Article, nor the adoption or amendment of any other provision of the Charter or these Bylaws inconsistent with this Article, shall apply to or affect in any respect the applicability of the preceding paragraph with respect to any act or failure to act which occurred prior to such amendment, repeal or adoption.

ARTICLE XIII

WAIVER OF NOTICE

Whenever any notice of a meeting is required to be given pursuant to the Charter or these Bylaws or pursuant to applicable law, a waiver thereof in writing or by electronic transmission, given by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice. Neither the business to be transacted at nor the purpose of any meeting need be set forth in the waiver of notice of such meeting, unless specifically required by statute. The attendance of any person at any meeting shall constitute a waiver of notice of such meeting, except where such person attends a meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting has not been lawfully called or convened.

ARTICLE XIV

EXCLUSIVE FORUM FOR CERTAIN LITIGATION

Unless the Corporation consents in writing to the selection of an alternative forum, the Circuit Court for Baltimore City, Maryland, or, if that Court does not have jurisdiction, the United States District Court for the District of Maryland, Northern Division, shall be the sole and exclusive forum for (a) any derivative action or proceeding brought on behalf of the Corporation, other than actions arising under federal securities laws, (b) any Internal Corporate Claim, as such term is defined in the MGCL, or any successor provision thereof, including, without limitation, (i) any action asserting a claim of breach of any duty owed by any director or officer or other employee of the Corporation to the Corporation or to the stockholders of the Corporation or (ii) any action asserting a claim against the Corporation or any director or officer or other employee of the Corporation arising pursuant to any provision of the MGCL, the Charter or these Bylaws, or (c) any other action asserting a claim against the Corporation or any director or officer or other employee of the Corporation that is governed by the internal affairs doctrine. None of the foregoing actions, claims or proceedings may be brought in any court sitting outside the State of Maryland unless the Corporation consents in writing to such court.

Unless the Corporation consents in writing to the selection of an alternative forum, the federal district courts of the United States of America shall, to the fullest extent permitted by law, be the sole and exclusive forum for the resolution of any complaint asserting a cause of action arising under the Securities Act of 1933, as amended.

ARTICLE XV

AMENDMENT OF BYLAWS

The Board of Directors shall have the exclusive power to adopt, alter or repeal any provision of these Bylaws and to make new Bylaws.

**CERTIFICATION PURSUANT TO RULE 13a-14(a) AND 15d-14(a) UNDER
THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED**

I, Edward M. Weil, Jr., certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of American Strategic Investment Co.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, 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;
 - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Dated this 11th day of August, 2023

/s/ Edward M. Weil, Jr.

Edward M. Weil, Jr.

Executive Chairman, Chief Executive Officer, President and Secretary

(Principal Executive Officer)

**CERTIFICATION PURSUANT TO RULE 13a-14(a) AND 15d-14(a) UNDER
THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED**

I, Christopher J. Masterson, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of American Strategic Investment Co.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, 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;
 - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Dated this 11th day of August, 2023

/s/ Christopher J. Masterson

Christopher J. Masterson

Chief Financial Officer and Treasurer

(Principal Financial Officer and Principal Accounting Officer)

SECTION 1350 CERTIFICATIONS

This Certificate is being delivered pursuant to the requirements of Section 1350 of Chapter 63 (Mail Fraud) of Title 18 (Crimes and Criminal Procedures) of the United States Code, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, and shall not, except to the extent required by the Sarbanes-Oxley Act of 2002, be deemed filed for purposes of Section 18 of the Securities Exchange Act of 1934, as amended.

The undersigned, who are the Chief Executive Officer and Chief Financial Officer of American Strategic Investment Co. (the "Company"), each hereby certify as follows:

The Quarterly Report on Form 10-Q of the Company, which accompanies this Certificate, fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, and all information contained in this quarterly report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Dated this 11th day of August, 2023

/s/ Edward M. Weil, Jr.

Edward M. Weil, Jr.

Executive Chairman, Chief Executive Officer, President and Secretary
(Principal Executive Officer)

/s/ Christopher J. Masterson

Christopher J. Masterson

Chief Financial Officer and Treasurer

(Principal Financial Officer and Principal Accounting Officer)