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

FORM 10-Q

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

For the Quarterly Period Ended March 31, 2023

☐ **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: 001-36105

EMPIRE STATE REALTY TRUST, INC.

(Exact name of Registrant as specified in its charter)

Maryland	**37-1645259**
(State or other jurisdiction of incorporation or organization)	**(I.R.S. Employer Identification No.)**

111 West 33rd Street, 12th Floor
New York, New York 10120
(Address of principal executive offices) (Zip Code)
(212) 850-2600
(Registrant's telephone number, including area code)

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol	Name of each exchange on which registered
Class A Common Stock, par value $0.01 per share	ESRT	The New York Stock Exchange
Class B Common Stock, par value $0.01 per share	N/A	N/A

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 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 or a smaller reporting company, or an emerging growth company. See definition of “large accelerated filer,” “accelerated filer,” “smaller reporting company,” and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer	☒	Accelerated filer	☐
Non-accelerated filer	☐	Smaller reporting company	☐
		Emerging growth company	☐

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 April 28, 2023, there were 159,400,986 shares of Class A Common Stock, $0.01 par value per share, outstanding and 988,287 shares of Class B Common Stock, $0.01 par value per share, outstanding.

EMPIRE STATE REALTY TRUST, INC.

FORM 10-Q FOR THE QUARTER ENDED MARCH 31, 2023

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ITEM 1. FINANCIAL STATEMENTS

Empire State Realty Trust, Inc.
Condensed Consolidated Balance Sheets
(amounts in thousands, except per share amounts)

	March 31, 2023	December 31, 2022
ASSETS	(unaudited)	
Commercial real estate properties, at cost:		
Land	$ 361,497	$ 365,540
Development costs	8,178	8,166
Building and improvements	3,183,615	3,177,743
	3,553,290	3,551,449
Less: accumulated depreciation	(1,162,923)	(1,137,267)
Commercial real estate properties, net	2,390,367	2,414,182
Assets held for sale	35,980	35,538
Cash and cash equivalents	272,648	264,434
Restricted cash	108,183	50,244
Tenant and other receivables	23,879	24,102
Deferred rent receivables	238,842	240,188
Prepaid expenses and other assets	57,891	98,114
Deferred costs, net	182,367	187,570
Acquired below-market ground leases, net	327,115	329,073
Right of use assets	28,612	28,670
Goodwill	491,479	491,479
Total assets	$ 4,157,363	$ 4,163,594
LIABILITIES AND EQUITY		
Liabilities:		
Mortgage notes payable, net	$ 882,142	$ 883,705
Senior unsecured notes, net	973,714	973,659
Unsecured term loan facilities, net	388,901	388,773
Unsecured revolving credit facility	—	—
Accounts payable and accrued expenses	71,605	80,729
Acquired below-market leases, net	16,581	17,849
Ground lease liabilities	28,612	28,670
Deferred revenue and other liabilities	76,769	76,091
Tenants’ security deposits	35,111	25,084
Liabilities related to assets held for sale	6,862	5,943
Total liabilities	2,480,297	2,480,503
Commitments and contingencies		
Equity:		
Empire State Realty Trust, Inc. stockholders' equity:		
Preferred stock, $0.01 par value, 50,000 shares authorized, none issued or outstanding	—	—
Class A common stock, $0.01 par value, 400,000 shares authorized, 160,340 and 160,139 shares issued and outstanding in 2023 and 2022, respectively	1,603	1,601
Class B common stock, $0.01 par value, 50,000 shares authorized, 989 and 990 shares issued and outstanding in 2023 and 2022, respectively	10	10
Additional paid-in capital	1,051,926	1,055,184
Accumulated other comprehensive income	3,336	7,048
Retained deficit	(108,624)	(109,468)
Total Empire State Realty Trust, Inc. stockholders' equity	948,251	954,375
Non-controlling interests in the Operating Partnership	683,815	683,310
Non-controlling interests in other partnerships	15,060	15,466
Private perpetual preferred units:		
Private perpetual preferred units, $13.52 liquidation preference, 4,664 issued and outstanding in 2023 and 2022, respectively	21,936	21,936
Private perpetual preferred units, $16.62 liquidation preference, 1,560 issued and outstanding in 2023 and 2022	8,004	8,004
Total equity	1,677,066	1,683,091
Total liabilities and equity	$ 4,157,363	$ 4,163,594

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

Empire State Realty Trust, Inc.
Condensed Consolidated Statements of Operations
(unaudited)
(amounts in thousands, except per share amounts)

	Three Months Ended March 31, 2023	2022
Revenues:		
Rental revenue	$ 140,091	$ 147,514
Observatory revenue	22,154	13,241
Lease termination fees	—	1,173
Third-party management and other fees	427	310
Other revenue and fees	1,950	1,796
Total revenues	164,622	164,034
Operating expenses:		
Property operating expenses	42,044	38,644
Ground rent expenses	2,331	2,331
General and administrative expenses	15,708	13,686
Observatory expenses	7,855	6,215
Real estate taxes	31,788	30,004
Depreciation and amortization	47,408	67,106
Total operating expenses	147,134	157,986
Total operating income	17,488	6,048
Other income (expense):		
Interest income	2,595	149
Interest expense	(25,304)	(25,014)
Gain on sale of property	15,696	—
Income (loss) before income taxes	10,475	(18,817)
Income tax benefit	1,219	1,596
Net income (loss)	11,694	(17,221)
Net (income) loss attributable to non-controlling interests:		
Non-controlling interests in the Operating Partnership	(4,168)	6,919
Non-controlling interests in other partnerships	43	63
Private perpetual preferred unit distributions	(1,050)	(1,050)
Net income (loss) attributable to common stockholders	$ 6,519	$ (11,289)
Total weighted average shares:		
Basic	161,339	169,731
Diluted	265,197	273,759
Earnings per share attributable to common stockholders:		
Basic	$ 0.04	$ (0.07)
Diluted	$ 0.04	$ (0.07)
Dividends per share	$ 0.035	$ 0.035

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

Empire State Realty Trust, Inc.
Condensed Consolidated Statements of Comprehensive Income (Loss)
(unaudited)
(amounts in thousands)

	Three Months Ended March 31, 2023	2022
Net income (loss)	$ 11,694	$ (17,221)
Other comprehensive income:		
Unrealized gain (loss) on valuation of interest rate swap agreements	(5,402)	9,763
Less: amount reclassified into interest expense	(1,272)	3,294
Other comprehensive income (loss)	(6,674)	13,057
Comprehensive income (loss)	5,020	(4,164)
Net (income) loss attributable to non-controlling interests and private perpetual preferred unitholders	(5,175)	5,932
Other comprehensive (income) loss attributable to non-controlling interests	2,835	(4,962)
Comprehensive income (loss) attributable to common stockholders	$ 2,680	$ (3,194)

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

Empire State Realty Trust, Inc.
Condensed Consolidated Statements of Stockholders' Equity
For The Three Months Ended March 31, 2023 and 2022
(unaudited) (amounts in thousands)

	Number of Class A Common Shares	Class A Common Stock	Number of Class B Common Shares	Class B Common Stock	Additional Paid-In Capital	Accumulated Other Comprehensive Income (Loss)	Retained Earnings (Deficit)	Total Stockholders' Equity	Non-controlling Interests	Private Perpetual Preferred Units	Total Equity
Balance at December 31, 2022	160,139	$ 1,601	990	$ 10	$ 1,055,184	$ 7,048	$ (109,468)	$ 954,375	$ 698,776	$ 29,940	$ 1,683,091
Conversion of operating partnership units and Class B shares to Class A shares	807	8	(1)	—	2,409	127	—	2,544	(2,544)	—	—
Repurchases of common shares	(933)	(9)	—	—	(5,685)	—	—	(5,694)	—	—	(5,694)
Contributions from consolidated joint ventures	—	—	—	—	—	—	—	—	18	—	18
Equity compensation:											
LTIP units	—	—	—	—	—	—	—	—	4,353	—	4,353
Restricted stock, net of forfeitures	327	3	—	—	18	—	—	21	—	—	21
Dividends and distributions	—	—	—	—	—	—	(5,675)	(5,675)	(3,018)	(1,050)	(9,743)
Net income	—	—	—	—	—	—	6,519	6,519	4,125	1,050	11,694
Other comprehensive income (loss)	—	—	—	—	—	(3,839)	—	(3,839)	(2,835)	—	(6,674)
Balance at March 31, 2023	160,340	$ 1,603	989	$ 10	$ 1,051,926	$ 3,336	$ (108,624)	$ 948,251	$ 698,875	$ 29,940	$ 1,677,066

	Number of Class A Common Shares	Class A Common Stock	Number of Class B Common Shares	Class B Common Stock	Additional Paid-In Capital	Accumulated Other Comprehensive Income (Loss)	Retained Earnings (Deficit)	Total Stockholders' Equity	Non-controlling Interests	Private Perpetual Preferred Units	Total Equity
Balance at December 31, 2021	169,221	$ 1,692	996	$ 10	$ 1,150,884	$ (20,848)	$ (133,610)	$ 998,128	$ 656,264	$ 29,940	$ 1,684,332
Conversion of operating partnership units and Class B shares to Class A shares	574	6	(1)	—	1,468	23	—	1,497	(1,497)	—	—
Repurchases of common shares	(1,255)	(12)	—	—	(33,089)	—	21,100	(12,001)	—	—	(12,001)
Contributions from consolidated joint ventures	—	—	—	—	—	—	—	—	224	—	224
Equity compensation:											
LTIP units	—	—	—	—	—	—	—	—	4,521	—	4,521
Restricted stock, net of forfeitures	191	1	—	—	(62)	—	—	(61)	—	—	(61)
Dividends and distributions	—	—	—	—	—	—	(5,948)	(5,948)	(3,821)	(1,050)	(10,819)
Net income (loss)	—	—	—	—	—	—	(11,289)	(11,289)	(6,982)	1,050	(17,221)
Other comprehensive income	—	—	—	—	—	8,095	—	8,095	4,962	—	13,057
Balance at March 31, 2022	168,731	$ 1,687	995	$ 10	$ 1,119,201	$ (12,730)	$ (129,747)	$ 978,421	$ 653,671	$ 29,940	$ 1,662,032

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

Empire State Realty Trust, Inc.
Condensed Consolidated Statements of Cash Flows
(unaudited)
(amounts in thousands)

	Three Months Ended March 31, 2023	2022
Cash Flows From Operating Activities		
Net income (loss)	$ 11,694	$ (17,221)
Adjustments to reconcile net income (loss) to net cash provided by operating activities:		
Depreciation and amortization	47,408	67,106
Gain on sale of property	(15,696)	—
Amortization of non-cash items within interest expense	2,238	14,593
Amortization of acquired above- and below-market leases, net	(703)	(1,784)
Amortization of acquired below-market ground leases	1,958	1,958
Straight-lining of rental revenue	(556)	(2,595)
Equity based compensation	4,374	4,460
Increase (decrease) in cash flows due to changes in operating assets and liabilities:		
Security deposits	10,184	(478)
Tenant and other receivables	258	847
Deferred leasing costs	(4,498)	(14,525)
Prepaid expenses and other assets	34,915	27,018
Accounts payable and accrued expenses	(6,804)	(12,661)
Deferred revenue and other liabilities	1,591	975
Net cash provided by operating activities	86,363	67,693
Cash Flows From Investing Activities		
Net proceeds from sale of property	39,137	—
Development costs	(12)	(31)
Additions to building and improvements	(41,756)	(34,945)
Net cash used in investing activities	(2,631)	(34,976)

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

Empire State Realty Trust, Inc.
Condensed Consolidated Statements of Cash Flows (continued)
(unaudited)
(amounts in thousands)

	Three Months Ended March 31, 2023	2022
Cash Flows From Financing Activities		
Repayment of mortgage notes payable	(2,142)	(2,092)
Contributions from consolidated joint ventures	—	224
Repurchases of common shares	(5,694)	(12,001)
Private perpetual preferred unit distributions	(1,050)	(1,050)
Dividends paid to common stockholders	(5,675)	(5,948)
Distributions paid to non-controlling interests in the operating partnership	(3,018)	(3,821)
Net cash used in financing activities	(17,579)	(24,688)
Net increase (decrease) in cash and cash equivalents and restricted cash	66,153	8,029
Cash and cash equivalents and restricted cash—beginning of period	314,678	474,638
Cash and cash equivalents and restricted cash—end of period	$ 380,831	$ 482,667
Reconciliation of Cash and Cash Equivalents and Restricted Cash:		
Cash and cash equivalents at beginning of period	$ 264,434	$ 423,695
Restricted cash at beginning of period	50,244	50,943
Cash and cash equivalents and restricted cash at beginning of period	$ 314,678	$ 474,638
Cash and cash equivalents at end of period	$ 272,648	$ 429,716
Restricted cash at end of period	108,183	52,951
Cash and cash equivalents and restricted cash at end of period	$ 380,831	$ 482,667
Supplemental disclosures of cash flow information:		
Cash paid for interest	$ 23,006	$ 19,655
Cash paid for income taxes	$ 283	$ 93
Non-cash investing and financing activities:		
Building and improvements included in accounts payable and accrued expenses	$ 39,982	$ 57,072
Write-off of fully depreciated assets	847	4,744
Derivative instruments at fair values included in prepaid expenses and other assets	12,446	45
Derivative instruments at fair values included in accounts payable and accrued expenses	2,171	13,290
Conversion of operating partnership units and Class B shares to Class A shares	2,544	1,497

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

Empire State Realty Trust, Inc.
Notes to Condensed Consolidated Financial Statements
(unaudited)

1. Description of Business and Organization

As used in these condensed consolidated financial statements, unless the context otherwise requires, “we,” “us,” “our,” the “company,” and "ESRT" mean Empire State Realty Trust, Inc. and its consolidated subsidiaries.

We are a self-administered and self-managed real estate investment trust, or REIT, that owns, manages, operates, acquires and repositions office, retail and multifamily properties in Manhattan and the greater New York metropolitan area. As the owner of the Empire State Building, the World’s Most Famous Building, we also own and operate our iconic, newly reimagined Observatory Experience.

As of March 31, 2023, our office and retail portfolio contained 9.6 million rentable square feet of office and retail space. We owned 12 office properties (including three long-term ground leasehold interests) encompassing approximately 8.9 million rentable square feet of office space. Nine of these properties are located in the midtown Manhattan market and encompass in the aggregate approximately 7.6 million rentable square feet of office space, including the Empire State Building. Our Manhattan office and multifamily properties also contain an aggregate of approximately 0.5 million rentable square feet of retail space on their ground floor and/or contiguous levels. Our remaining three office properties are located in Fairfield County, Connecticut and Westchester County, New York, encompassing in the aggregate approximately 1.3 million rentable square feet. The majority of square footage for these three properties is located in densely populated metropolitan communities with immediate access to mass transportation. Additionally, we have entitled land at the Stamford Transportation Center in Stamford, Connecticut, adjacent to one of our office properties, that will support the development of an approximately 0.4 million rentable square foot office building and garage. As of March 31, 2023, our portfolio included four standalone retail properties located in Manhattan encompassing approximately 0.2 million rentable square feet in the aggregate. Additionally, as of March 31, 2023, our portfolio included three multifamily properties located in Manhattan totaling 721 units.

We were organized as a Maryland corporation on July 29, 2011 and commenced operations upon completion of our initial public offering and related formation transactions on October 7, 2013. Our operating partnership, Empire State Realty OP, L.P. (the "Operating Partnership"), holds substantially all of our assets and conducts substantially all of our business. As of March 31, 2023, we owned approximately 59.3% of the aggregate operating partnership units in the Operating Partnership. We, as the sole general partner in the Operating Partnership, have responsibility and discretion in the management and control of the Operating Partnership, and the limited partners in the Operating Partnership, in such capacity, have no authority to transact business for, or participate in the management activities of, the Operating Partnership. Accordingly, the Operating Partnership has been consolidated by us. We elected to be taxed as a REIT and operate in a manner that we believe allows us to qualify as a REIT for federal income tax purposes commencing with our taxable year ended December 31, 2013.

2. Summary of Significant Accounting Policies

There have been no material changes to the summary of significant accounting policies included in the section entitled "Summary of Significant Accounting Policies" in our December 31, 2022 Annual Report on Form 10-K.

Basis of Quarterly Presentation and Principles of Consolidation

The accompanying unaudited condensed consolidated financial statements have been prepared in conformity with accounting principles generally accepted in the United States of America (“GAAP”), for interim financial information, and with the rules and regulations of the Securities and Exchange Commission (the "SEC"). Accordingly, certain information and footnote disclosures required by GAAP for complete financial statements have been condensed or omitted in accordance with such rules and regulations. In the opinion of management, all adjustments and eliminations (including intercompany balances and transactions), consisting of normal recurring adjustments, considered necessary for the fair presentation of the financial statements have been included.

The results of operations for the periods presented are not necessarily indicative of the results that may be expected for the corresponding full years. These financial statements should be read in conjunction with the financial statements and accompanying notes included in the financial statements for the year ended December 31, 2022 contained in our Annual Report on Form 10-K. Our observatory business is subject to seasonality based on tourism trends and the weather. Pre-pandemic, approximately 16.0% to 18.0% of our annual observatory revenue was realized in the first quarter, 26.0% to 28.0% was realized in the second quarter, 31.0% to 33.0% was realized in the third quarter, and 23.0% to 25.0% was realized in the fourth quarter. Our multifamily business experiences some seasonality based on general market trends in New York City – the winter months (November through January) are slower in terms of lease activity. We seek to mitigate this by staggering lease terms such that lease expirations are matched with seasonal demand. We do not consider the balance of our business to be subject to material seasonal fluctuations.

We consolidate entities in which we have a controlling financial interest. In determining whether we have a controlling financial interest in a partially owned entity and the requirement to consolidate the accounts of that entity, we consider factors such as ownership interest, board representation, management representation, authority to make decisions, and contractual and substantive participating rights of the partners/members. For variable interest entities ("VIE"), we consolidate the entity if we are deemed to have a variable interest in the entity and through that interest we are deemed the primary beneficiary. The primary beneficiary of a VIE is the entity that has (i) the power to direct the activities that most significantly impact the entity's economic performance and (ii) the obligation to absorb losses of the VIE or the right to receive benefits from the VIE that could be significant to the VIE. The primary beneficiary is required to consolidate the VIE. The Operating Partnership is a VIE of our company, Empire State Realty Trust, Inc. As the Operating Partnership is already consolidated in the financial statements of Empire State Realty Trust, Inc., the identification of this entity as a VIE has no impact on our consolidated financial statements. We also determined that the Operating Partnership has a variable interest in and is the primary beneficiary of 298 Mulberry, the multifamily asset we acquired in December 2022.

We will assess the accounting treatment for each investment we may have in the future. This assessment will include a review of each entity's organizational agreement to determine which party has what rights and whether those rights are protective or participating. For all VIEs, we will review such agreements in order to determine which party has the power to direct the activities that most significantly impact the entity's economic performance and benefit. In situations where we or our partner could approve, among other things, the annual budget, or leases that cover more than a nominal amount of space relative to the total rentable space at each property, we would not consolidate the investment as we consider these to be substantive participation rights that result in shared power of the activities that would most significantly impact the performance and benefit of such joint venture investment.

A non-controlling interest in a consolidated subsidiary is defined as the portion of the equity (net assets) in a subsidiary not attributable, directly or indirectly, to a parent. Non-controlling interests are required to be presented as a separate component of equity in the condensed consolidated balance sheets and in the condensed consolidated statements of operations by requiring earnings and other comprehensive income to be attributed to controlling and non-controlling interests.

Accounting Estimates

The preparation of the condensed consolidated financial statements in accordance with GAAP requires management to use estimates and assumptions that in certain circumstances affect the reported amounts of assets and liabilities, the disclosure of contingent assets and liabilities, and the reported revenues and expenses. Significant items subject to such estimates and assumptions include allocation of the purchase price of acquired real estate properties among tangible and intangible assets, determination of the useful life of real estate properties and other long-lived assets, valuation and impairment analysis of commercial real estate properties, right of use assets and other long-lived and indefinite lived assets, estimate of tenant expense reimbursements, valuation of the allowance for doubtful accounts, and valuation of derivative instruments, ground lease liabilities, senior unsecured notes, mortgage notes payable, unsecured term loan and revolving credit facilities, and equity based compensation. These estimates are prepared using management's best judgment, after considering past, current, and expected events and economic conditions. Actual results could differ from those estimates.

3. Acquisitions and Dispositions

In December 2022, we entered into a purchase and sale agreement for 500 Mamaroneck Avenue in Harrison, NY at a gross asset valuation of $53.0 million. The assets and related liabilities of the 500 Mamaroneck property are classified as held for sale in our condensed consolidated balance sheet as of March 31, 2023 and December 31, 2022 having met the held for sale criteria set forth in ASC 360 Property, Plant, and Equipment. Subsequent to March 31, 2023, we closed on the sale of this property on April 5, 2023.

On February 1, 2023, we closed on the sale of 69-97 and 103-107 Main Street in Westport, Connecticut at a gross asset valuation of $40.0 million, and recorded a gain of $15.7 million, which is included in Gain on sale of property in our consolidated statement of operations. The Westport sale was a related party transaction approved in accordance with the Company's related party transactions policy. See our Annual Report on Form 10-K for the year ended December 31, 2022 for more information.

4. Deferred Costs, Acquired Lease Intangibles and Goodwill

Deferred costs, net, consisted of the following as of March 31, 2023 and December 31, 2022 (amounts in thousands):

	March 31, 2023	December 31, 2022
Leasing costs	$ 220,988	$ 218,707
Acquired in-place lease value and deferred leasing costs	160,271	160,683
Acquired above-market leases	27,661	27,833
	408,920	407,223
Less: accumulated amortization	(229,493)	(223,246)
Total deferred costs, net, excluding net deferred financing costs	$ 179,427	$ 183,977

At March 31, 2023 and December 31, 2022, $4.4 million and $5.0 million, respectively, of net deferred financing costs associated with the unsecured revolving credit facility was included in deferred costs, net on the condensed consolidated balance sheets.

Amortization expense related to deferred leasing costs and acquired deferred leasing costs was $5.8 million and $7.0 million for the three months ended March 31, 2023 and 2022, respectively. Amortization expense related to acquired lease intangibles was $2.4 million and $4.2 million for the three months ended March 31, 2023 and 2022, respectively.

Amortizing acquired intangible assets and liabilities consisted of the following as of March 31, 2023 and December 31, 2022 (amounts in thousands):

	March 31, 2023	December 31, 2022
Acquired below-market ground leases	$ 396,916	$ 396,916
Less: accumulated amortization	(69,801)	(67,843)
Acquired below-market ground leases, net	$ 327,115	$ 329,073

	March 31, 2023	December 31, 2022
Acquired below-market leases	$ (64,656)	$ (64,656)
Less: accumulated amortization	48,075	46,807
Acquired below-market leases, net	$ (16,581)	$ (17,849)

Rental revenue related to the amortization of below-market leases, net of above-market leases, was $0.7 million and $1.8 million for the three months ended March 31, 2023 and 2022, respectively.

As of March 31, 2023 and December 31, 2022, we had goodwill of $491.5 million. Goodwill was allocated $227.5 million to the observatory reportable segment and $264.0 million to the real estate reportable segment.

From the quarter ended June 30, 2020 through our annual goodwill testing in October 2022, we bypassed the optional qualitative goodwill impairment assessment and proceeded directly to a quantitative assessment of the observatory reportable segment and engaged a third-party valuation consulting firm to perform the valuation process. This was done in response to the temporary closure of our observatory due to the COVID-19 pandemic and subsequent slow increase in visitors due to continued pandemic-related restrictions impacting tourism and international travel. The quantitative analysis used a combination of the discounted cash flow method (a form of the income approach) utilizing Level 3 unobservable inputs and the guideline company method (a form of the market approach). Significant assumptions under the former included revenue and cost projections, weighted average cost of capital, long-term growth rate and income tax considerations while the latter included guideline company enterprise values, revenue multiples and control premium rates. Our methodology to review goodwill impairment, which included a significant amount of judgment and estimates, provided a reasonable basis to determine whether impairment had occurred. Each quantitative analysis performed concluded the fair value of the reporting unit exceeds its carrying value. For the quarter ended March 31, 2023, we performed an optional qualitative assessment and did not identify any events which occurred between our last quantitative assessment and the current reporting date which would indicate, on a more likely than not basis, that the goodwill allocated to the reporting unit was impaired. Many of the factors employed in determining whether or not goodwill is impaired are outside of our control, and it is reasonably likely that assumptions and estimates will change in future periods. We will continue to assess the impairment of the observatory reporting unit goodwill going forward.

5. Debt

Debt consisted of the following as of March 31, 2023 and December 31, 2022 (amounts in thousands):

	Principal Balance		As of March 31, 2023		
	March 31, 2023	December 31, 2022	Stated Rate	Effective Rate[1]	Maturity Date[2]
Mortgage debt collateralized by:					
Fixed rate mortgage debt					
Metro Center	$ 81,973	$ 82,596	3.59 %	3.67 %	11/5/2024
10 Union Square	50,000	50,000	3.70 %	3.97 %	4/1/2026
1542 Third Avenue	30,000	30,000	4.29 %	4.53 %	5/1/2027
First Stamford Place[3]	178,068	178,823	4.28 %	4.73 %	7/1/2027
1010 Third Avenue and 77 West 55th Street	35,616	35,831	4.01 %	4.21 %	1/5/2028
250 West 57th Street	180,000	180,000	2.83 %	3.21 %	12/1/2030
1333 Broadway	160,000	160,000	4.21 %	4.29 %	2/5/2033
345 East 94th Street - Series A	43,600	43,600	70.0% of LIBOR plus 0.95%	3.56 %	11/1/2030
345 East 94th Street - Series B	7,707	7,865	LIBOR plus 2.24%	3.56 %	11/1/2030
561 10th Avenue - Series A	114,500	114,500	70.0% of LIBOR plus 1.07%	3.85 %	11/1/2033
561 10th Avenue - Series B	17,025	17,415	LIBOR plus 2.45%	3.85 %	11/1/2033
Total mortgage debt	898,489	900,630			
Senior unsecured notes:[4]					
Series A	100,000	100,000	3.93 %	3.96 %	3/27/2025
Series B	125,000	125,000	4.09 %	4.12 %	3/27/2027
Series C	125,000	125,000	4.18 %	4.21 %	3/27/2030
Series D	115,000	115,000	4.08 %	4.11 %	1/22/2028
Series E	160,000	160,000	4.26 %	4.27 %	3/22/2030
Series F	175,000	175,000	4.44 %	4.45 %	3/22/2033
Series G	100,000	100,000	3.61 %	4.89 %	3/17/2032
Series H	75,000	75,000	3.73 %	5.00 %	3/17/2035
Unsecured term loan facility [4]	215,000	215,000	SOFR plus 1.20%	4.22 %	3/19/2025
Unsecured revolving credit facility [4]	—	—	SOFR plus 1.30%	—	3/31/2025
Unsecured term loan facility [4]	175,000	175,000	SOFR plus 1.50%	4.51 %	12/31/2026
Total principal	2,263,489	2,265,630			
Deferred financing costs, net	(11,182)	(11,748)			
Unamortized debt discount	(7,550)	(7,745)			
Total	$ 2,244,757	$ 2,246,137			

(1) The effective rate is the yield as of March 31, 2023 and includes the stated interest rate, deferred financing cost amortization and interest associated with variable to fixed interest rate swap agreements.
(2) Pre-payment is generally allowed for each loan upon payment of a customary pre-payment penalty.
(3) Represents a $164 million mortgage loan bearing interest at 4.09% and a $14.1 million loan bearing interest at 6.25%.
(4) At March 31, 2023, we were in compliance with all debt covenants.

Principal Payments

Aggregate required principal payments at March 31, 2023 are as follows (amounts in thousands):

Year	Amortization	Maturities	Total
2023	$ 6,491	$ —	$ 6,491
2024	8,861	77,675	86,536
2025	6,893	315,000	321,893
2026	7,330	225,000	232,330
2027	6,461	319,000	325,461
Thereafter	22,079	1,268,699	1,290,778
Total	$ 58,115	$ 2,205,374	$ 2,263,489

Deferred Financing Costs

Deferred financing costs, net, consisted of the following at March 31, 2023 and December 31, 2022 (amounts in thousands):

	March 31, 2023	December 31, 2022
Financing costs	$ 43,473	$ 43,473
Less: accumulated amortization	(27,842)	(26,753)
Total deferred financing costs, net	$ 15,631	$ 16,720

Amortization expense related to deferred financing costs was $1.1 million and $1.4 million for the three months ended March 31, 2023 and 2022, respectively.

Unsecured Revolving Credit and Term Loan Facilities

On August 29, 2022, through our Operating Partnership, we entered into a third amendment to our amended and restated credit agreement dated August 29, 2017 with Bank of America, N.A., as administrative agent and the other lenders party thereto, which governs our senior unsecured revolving credit facility and term loan facility (collectively, the “BofA Credit Facility”). The BofA Credit Facility is in the initial maximum principal amount of up to $1.065 billion, which consists of an $850.0 million revolving credit facility that matures on March 31, 2025, and a $215.0 million term loan facility that matures on March 19, 2025. The third amendment revised the terms of the BofA Credit Facility to (i) replace LIBOR with SOFR given the phase out of LIBOR and (ii) permit the addition of multifamily assets as Unencumbered Eligible Property (as defined therein) and add a capitalization rate for such assets. As of March 31, 2023, we had no borrowings under the revolving credit facility and $215.0 million under the term loan facility.

On August 29, 2022, through our Operating Partnership, we entered into a second amendment to our credit agreement dated March 19, 2020 with Wells Fargo Bank, National Association, as administrative agent, and the other lenders party thereto, which governs a senior unsecured term loan facility (the “Wells Term Loan Facility”). The Wells Term Loan Facility is in the original principal amount of $175.0 million and matures on December 31, 2026. The second amendment revised the terms of the Wells Term Loan Facility to (i) replace LIBOR with SOFR given the phase out of LIBOR and (ii) permit the addition of multifamily assets as Unencumbered Eligible Property (as defined therein) and add a capitalization rate for such assets. We may request the Wells Term Loan Facility be increased through one or more increases or the addition of new pari passu term loan tranches, for a maximum aggregate principal amount not to exceed $225 million. As of March 31, 2023, our borrowings amounted to $175.0 million under the Wells Term Loan Facility.

The terms of both the BofA Credit Facility and the Wells Term Loan Facility include customary covenants, including limitations on liens, investment, distributions, debt, fundamental changes, and transactions with affiliates and require certain customary financial reports. Both facilities also require compliance with financial ratios including a maximum leverage ratio, a maximum secured leverage ratio, a minimum fixed charge coverage ratio, a minimum unencumbered interest coverage ratio, and a maximum unsecured leverage ratio. The agreements governing both facilities also contain customary events of default (subject in certain cases to specified cure periods), including but not limited to non-payment, breach of covenants, representations or warranties, cross defaults, bankruptcy or other insolvency events, judgments, ERISA events, invalidity of loan documents, loss of real estate investment trust qualification, and occurrence of a change of control. As of March 31, 2023, we were in compliance with these covenants.

Senior Unsecured Notes

The terms of the senior unsecured notes include customary covenants, including limitations on liens, investment, distributions, debt, fundamental changes, and transactions with affiliates and require certain customary financial reports. It also requires compliance with financial ratios including a maximum leverage ratio, a maximum secured leverage ratio, a minimum fixed charge coverage ratio, a minimum unencumbered interest coverage ratio, and a maximum unsecured leverage ratio. The agreements also contain customary events of default (subject in certain cases to specified cure periods), including but not limited to non-payment, breach of covenants, representations or warranties, cross defaults, bankruptcy or other insolvency events, judgments, ERISA events, the occurrence of certain change of control transactions and loss of real estate investment trust qualification. As of March 31, 2023, we were in compliance with these covenants.

6. Accounts Payable and Accrued Expenses

Accounts payable and accrued expenses consisted of the following as of March 31, 2023 and December 31, 2022 (amounts in thousands):

	March 31, 2023	December 31, 2022
Accrued capital expenditures	$ 39,982	$ 44,293
Accounts payable and accrued expenses	24,322	32,927
Interest rate swaps liability	2,171	—
Accrued interest payable	3,558	3,509
Due to affiliated companies, net	1,572	—
Total accounts payable and accrued expenses	$ 71,605	$ 80,729

7. Financial Instruments and Fair Values

Derivative Financial Instruments

We use derivative financial instruments primarily to manage interest rate risk and such derivatives are not considered speculative. These derivative instruments are typically in the form of interest rate swap and forward agreements, and the primary objective is to minimize interest rate risks associated with investing and financing activities. The counterparties of these arrangements are major financial institutions with which we may also have other financial relationships. We are exposed to credit risk in the event of non-performance by these counterparties; however, we currently do not anticipate that any of the counterparties will fail to meet its obligations.

We have agreements with our derivative counterparties that contain a provision where if we either default or are capable of being declared in default on any of our indebtedness, then we could also be declared in default on our derivative obligations. As of March 31, 2023, the fair value of derivatives in a liability position, that includes accrued interest but excludes any adjustment for nonperformance risk, was $2.4 million. If we had breached any of these provisions at March 31, 2023, we could have been required to settle our obligations under the agreements at their termination value of $2.4 million.

As of March 31, 2023 and December 31, 2022, we had interest rate swaps and caps with an aggregate notional value of $574.4 million and $574.8 million, respectively. The notional value does not represent exposure to credit, interest rate or market risks. As of March 31, 2023, the fair value of our interest rate swaps in an asset and liability position were $12.5 million and $(2.2) million, respectively, and are included in prepaid expenses and other assets and in accounts payable and accrued expenses, respectively, on the condensed consolidated balance sheet. As of December 31, 2022, the fair value of our derivative instruments in an asset position amounted to $17.9 million, which is included in prepaid expenses and other assets on the condensed consolidated balance sheet. These interest rate swaps have been designated as cash flow hedges and hedge the variability in future cash flows associated with our existing variable-rate term loan facilities. Interest rate caps not designated as hedges are not speculative and are used to manage our exposure to interest rate movements, but do not meet the strict hedge accounting requirements.

As of March 31, 2023 and 2022, our cash flow hedges are deemed highly effective and a net unrealized gain (loss) of $(6.7) million and $13.1 million for the three months ended March 31, 2023 and 2022, respectively, relating to both active and terminated hedges of interest rate risk, are reflected in the condensed consolidated statements of comprehensive income (loss). Amounts reported in accumulated other comprehensive loss related to derivatives will be reclassified to interest expense as interest payments are made on the debt. We estimate that $5.3 million net gain of the current balance held in accumulated other comprehensive income (loss) will be reclassified into interest expense within the next 12 months.

The table below summarizes the terms of agreements and the fair values of our derivative financial instruments as of March 31, 2023 and December 31, 2022 (amounts in thousands):

						March 31, 2023		December 31, 2022	
Derivative	Notional Amount	Receive Rate	Pay Rate	Effective Date	Expiration Date	Asset	Liability	Asset	Liability
Interest rate swap	$ 36,820	70% of 1 Month LIBOR	2.5000%	December 1, 2021	November 1, 2030	$ —	$ (368)	$ 256	$ —
Interest rate swap	103,790	70% of 1 Month LIBOR	2.5000%	December 1, 2021	November 1, 2033	—	(1,803)	365	—
Interest rate swap	10,710	70% of 1 Month LIBOR	1.7570%	December 1, 2021	November 1, 2033	432		643	—
Interest rate swap	17,157	1 Month LIBOR	2.2540%	December 1, 2021	November 1, 2030	790	—	1,070	—
Interest rate cap	6,780	70% of 1 Month LIBOR	4.5000%	December 1, 2021	October 1, 2024	6	—	8	—
Interest rate cap	9,188	1 Month LIBOR	5.5000%	December 1, 2021	October 1, 2024	23	—	26	—
Interest rate swap	175,000	SOFR Compound	2.5620%	August 31, 2022	December 31, 2026	5,563	—	8,040	—
Interest rate swap	107,500	SOFR Compound	2.6260%	August 19, 2022	March 19, 2025	2,830	—	3,766	—
Interest rate swap	107,500	SOFR OIS Compound	2.6280%	August 19, 2022	March 19, 2025	2,831	—	3,762	—
						$ 12,475	$ (2,171)	$ 17,936	$ —

The table below shows the effect of our derivative financial instruments designated as cash flow hedges on accumulated other comprehensive income (loss) for the three months ended March 31, 2023 and 2022 (amounts in thousands):

	Three months ended	
Effects of Cash Flow Hedges	March 31, 2023	March 31, 2022
Amount of gain (loss) recognized in other comprehensive income (loss)	$ (5,402)	$ 9,763
Amount of loss reclassified from accumulated other comprehensive income (loss) into interest expense	1,272	(3,294)

The table below shows the effect of our derivative financial instruments designated as cash flow hedges on the condensed consolidated statements of operations for the three months ended March 31, 2023 and 2022 (amounts in thousands):

	Three months ended	
Effects of Cash Flow Hedges	March 31, 2023	March 31, 2022
Total interest expense presented in the condensed consolidated statements of operations in which the effects of cash flow hedges are recorded	$ (25,304)	$ (25,014)
Amount of loss reclassified from accumulated other comprehensive income (loss) into interest expense	1,272	(3,294)

Fair Valuation

The estimated fair values at March 31, 2023 and December 31, 2022 were determined by management, using available market information and appropriate valuation methodologies. Considerable judgment is necessary to interpret market data and develop estimated fair value. Accordingly, the estimates presented herein are not necessarily indicative of the amounts we could realize on disposition of the financial instruments. The use of different market assumptions and/or estimation methodologies may have a material effect on the estimated fair value amounts.

The fair value of derivative instruments is determined using widely accepted valuation techniques, including discounted cash flow analysis on the expected cash flows of each derivative. Although the majority of the inputs used to value our derivatives fall within Level 2 of the fair value hierarchy, the credit valuation adjustments associated with our derivatives utilize Level 3 inputs, such as estimates of current credit spreads to evaluate the likelihood of default by ourselves and our counterparties. The impact of such credit valuation adjustments, determined based on the fair value of each individual contract, was not significant to the overall valuation. As a result, all our derivatives were classified as Level 2 of the fair value hierarchy.

The fair values of our mortgage notes payable, senior unsecured notes - Series A, B, C, D, E, F, G and H - unsecured term loan facilities and unsecured revolving credit facility which are determined using Level 3 inputs are estimated by discounting the future cash flows using current interest rates at which similar borrowings could be made by us.

The following tables summarize the carrying and estimated fair values of our financial instruments as of March 31, 2023 and December 31, 2022 (amounts in thousands):

	March 31, 2023				
		Estimated Fair Value			
	Carrying Value	Total	Level 1	Level 2	Level 3
Interest rate swaps included in prepaid expenses and other assets	$ 12,446	$ 12,446	$ —	$ 12,446	$ —
Interest rate swaps included in accounts payable and accrued expenses	2,171	2,171	—	2,171	—
Mortgage notes payable	882,142	787,481	—	—	787,481
Senior unsecured notes - Series A, B, C, D, E, F, G and H	973,714	886,358	—	—	886,358
Unsecured term loan facilities	388,901	390,000	—	—	390,000

	December 31, 2022				
		Estimated Fair Value			
	Carrying Value	Total	Level 1	Level 2	Level 3
Interest rate swaps included in prepaid expenses and other assets	$ 17,936	$ 17,936	$ —	$ 17,936	$ —
Mortgage notes payable	883,705	783,648	—	—	783,648
Senior unsecured notes - Series A, B, C, D, E, F, G and H	973,659	865,292	—	—	865,292
Unsecured term loan facilities	388,773	390,000	—	—	390,000

Disclosure about the fair value of financial instruments is based on pertinent information available to us as of March 31, 2023 and December 31, 2022. Although we are not aware of any factors that would significantly affect the reasonable fair value amounts, such amounts have not been comprehensively revalued for purposes of these financial statements since that date and current estimates of fair value may differ significantly from the amounts presented herein.

8. Leases

Lessor

We lease various spaces to tenants over terms ranging from one to 22 years. Certain leases have renewal options for additional terms. The leases provide for base monthly rentals and reimbursements for real estate taxes, escalations linked to the consumer price index or common area maintenance known as operating expense escalation. Operating expense reimbursements are reflected in our March 31, 2023 and 2022 condensed consolidated statements of operations as rental revenue.

Rental revenue includes fixed and variable payments. Fixed payments primarily relate to base rent and variable payments primarily relate to tenant expense reimbursements for certain property operating costs. The components of rental revenue for the three months ended March 31, 2023 and 2022 are as follows (amounts in thousands):

	Three months ended	
Rental revenue	**March 31, 2023**	**March 31, 2022**
Fixed payments	$ 124,564	$ 133,401
Variable payments	15,527	14,113
Total rental revenue	$ 140,091	$ 147,514

As of March 31, 2023, we were entitled to the following future contractual minimum lease payments (excluding operating expense reimbursements) on non-cancellable operating leases to be received which expire on various dates through

2040 (amounts in thousands):

Remainder of 2023	$	368,524
2024		498,358
2025		468,145
2026		429,747
2027		411,175
Thereafter		1,786,987
	$	3,962,936

The above future minimum lease payments exclude tenant recoveries and the net accretion of above and below-market lease intangibles. Some leases are subject to termination options generally upon payment of a termination fee. The preceding table is prepared assuming such options are not exercised.

On March 12, 2023, Signature Bank, a tenant at 1400 Broadway and 1333 Broadway, was closed by the New York State Department of Financial Services and the Federal Deposit Insurance Corporation ("FDIC") was named receiver. To protect depositors, the FDIC transferred all the deposits and substantially all of the assets of Signature Bank to Signature Bridge Bank, N.A., (the "Bridge Bank") a full-service bank that will be operated by the FDIC, in accordance with the terms of a transfer agreement (the "Transfer Agreement"). On March 20, 2023, the FDIC entered into a purchase and assumption agreement (the "Flagstar Agreement") for substantially all deposits and certain loan portfolios of Signature Bridge Bank, N.A., by Flagstar Bank, N.A., Hicksville, NY ("Flagstar"), a wholly owned subsidiary of New York Community Bancorp, Inc., Westbury, NY.

Our understanding is the terms of the Flagstar Agreement provides Flagstar with the right to accept or not to accept an assignment of Signature Bank's lease by May 19, 2023. Additionally, the terms of the Transfer Agreement provide the Bridge Bank 120 days, or until July 10, 2023, the right to assume or reject the lease. As of the date of filing, there has been no official announcement from Flagstar or Bridge Bank with regards to Signature Bank's lease. While the tenant is current on all rent obligations to us through April 2023, uncertainty remains around whether the tenant will fulfill all of its obligations over the remaining term of their lease. Our assessment of collectability of the remaining lease payments due to us is no longer probable and in accordance with ASC 842-30-25-13, we have recorded a $6.4 million reserve on Signature Bank's straight-line rent receivable balance, that was calculated as the difference between the lease income that was recorded on a straight-line basis and the lease payments which have been collected from our tenant as of March 31, 2023. We will continue to assess the collectability of lease payments due to us over the course of the lease.

Lessee

We determine if an arrangement is a lease at inception. Our operating lease agreements relate to three ground lease assets and are reflected in right-of-use assets of $28.6 million and lease liabilities of $28.6 million in our condensed consolidated balance sheet as of March 31, 2023. Right-of-use assets represent our right to use an underlying asset for the lease term and lease liabilities represent our obligation to make lease payments arising from the lease. Right-of-use assets and liabilities are recognized at the commencement date based on the present value of lease payments over the lease term. Variable lease payments are excluded from the right-of-use assets and lease liabilities and are recognized in the period in which the obligation for those payments is incurred.

The ground leases are due to expire between the years 2050 and 2077, inclusive of extension options, and have no variable payments or residual value guarantees. As our leases do not provide an implicit rate, we determined our incremental borrowing rate based on information available at the date of adoption of Accounting Standards Update No. 2016-02, Leases (Topic 842), in determining the present value of lease payments. The weighted average incremental borrowing rate used to calculate the right-of-use assets and lease liabilities as of March 31, 2023 was 4.5%. Rent expense for lease payments related to our operating leases is recognized on a straight-line basis over the non-cancellable term of the leases. The weighted average remaining lease term as of March 31, 2023 was 47.2 years.

As of March 31, 2023, the following table summarizes our future minimum lease payments discounted by our incremental borrowing rates to calculate the lease liabilities of our leases (amounts in thousands):

Remainder of 2023	$	1,139
2024		1,518
2025		1,518
2026		1,503
2027		1,482
Thereafter		62,277
Total undiscounted cash flows		69,437
Present value discount		(40,825)
Ground lease liabilities	$	28,612

9. Commitments and Contingencies

Legal Proceedings

Except as described below, as of March 31, 2023, we were not involved in any material litigation, nor, to our knowledge, was any material litigation threatened against us or our properties, other than routine litigation arising in the ordinary course of business such as disputes with tenants. We believe that the costs and related liabilities, if any, which may result from such actions will not materially affect our condensed consolidated financial position, operating results or liquidity.

As previously disclosed, in October 2014, 12 former investors (the "Claimants") in Empire State Building Associates L.L.C. ("ESBA"), which prior to the initial public offering of our company (the "Offering") owned the fee title to the Empire State Building, filed an arbitration with the American Arbitration Association against Peter L. Malkin, Anthony E. Malkin, Thomas N. Keltner, Jr., and our subsidiary ESRT MH Holdings LLC, the former supervisor of ESBA (the "Respondents"). The statement of claim (also filed later in federal court in New York for the expressed purpose of tolling the statute of limitations) alleges breach of fiduciary duty and related claims in connection with the Offering and formation transactions and seeks monetary damages and declaratory relief. Claimants had opted out of a prior class action bringing similar claims that was settled with court approval. Respondents filed an answer and counterclaims. In March 2015, the federal court action was stayed on consent of all parties pending the arbitration. Arbitration hearings started in May 2016 and concluded in August 2018. On August 26, 2020, the arbitration panel issued an award that denied all Claimants' claims with one exception, on which it awarded Claimants approximately $1.2 million, inclusive of seven years of interest through October 2, 2020. This amount was recorded as an IPO litigation expense in the consolidated statement of operations for the year ended December 31, 2020.

Respondents believe that such award in favor of the Claimants is entirely without merit and sought to vacate that portion of the award. On September 27, 2021, the court denied Respondents' motion to vacate and entered judgement in the aforementioned amount, inclusive of accumulated interest. Respondents have appealed that ruling. On May 10, 2022, Respondents moved to dismiss the appeal and judgment on the grounds that a recent decision of the United States Supreme Court held that the federal courts have no subject matter jurisdiction over the case. Claimants opposed the motion. On April 20, 2023, the Court granted the motion. On April 21, 2023, Respondents filed a petition to vacate in part and otherwise confirm in New York State court, where it is currently pending. In addition, certain of the Claimants in the federal court action sought to pursue claims in that case against Respondents. Respondents believe that any such claims are meritless. The magistrate judge assigned to the action has issued a Report and Recommendation rejecting Claimants' claims; the district judge will decide whether to adopt the Report and Recommendation.

Pursuant to indemnification agreements which were made with our directors, executive officers and chairman emeritus as part of our formation transactions, Anthony E. Malkin, Peter L. Malkin and Thomas N. Keltner, Jr., our retired general counsel, have defense and indemnity rights from us with respect to this arbitration.

Unfunded Capital Expenditures

At March 31, 2023, we estimate that we will incur approximately $107.9 million of capital expenditures (including tenant improvements and leasing commissions) on our properties pursuant to existing lease agreements. We expect to fund these capital expenditures with operating cash flow, additional property level mortgage financings, our unsecured credit facility, cash on hand and other borrowings. Future property acquisitions may require substantial capital investments for refurbishment and leasing costs. We expect that these financing requirements will be met in a similar fashion.

Concentration of Credit Risk

Financial instruments that subject us to credit risk consist primarily of cash and cash equivalents, restricted cash, short-term investments, tenant and other receivables and deferred rent receivables. At March 31, 2023, we held on deposit at various major financial institutions cash and cash equivalents and restricted cash balances in excess of amounts insured by the Federal Deposit Insurance Corporation.

Asset Retirement Obligations

We are required to accrue costs that we are legally obligated to incur on retirement of our properties which result from acquisition, construction, development and/or normal operation of such properties. Retirement includes sale, abandonment or disposal of a property. Under that standard, a conditional asset retirement obligation represents a legal obligation to perform an asset retirement activity in which the timing and/or method of settlement is conditional on a future event that may or may not be within a company's control and a liability for a conditional asset retirement obligation must be recorded if the fair value of the obligation can be reasonably estimated. Environmental site assessments and investigations have identified asbestos or asbestos-containing building materials in certain of our properties. As of March 31, 2023, management has no plans to remove or alter these properties in a manner that would trigger federal and other applicable regulations for asbestos removal, and accordingly, the obligations to remove the asbestos or asbestos-containing building materials from these properties have indeterminable settlement dates. As such, we are unable to reasonably estimate the fair value of the associated conditional asset retirement obligation. However, ongoing asbestos abatement, maintenance programs and other required documentation are carried out as required and related costs are expensed as incurred.

Other Environmental Matters

Certain of our properties have been inspected for soil contamination due to pollutants, which may have occurred prior to our ownership of these properties or subsequently in connection with its development and/or its use. Required remediation to such properties has been completed, other than our post-closing obligations for remediation at our Westport retail assets, as discussed in more detail in our Annual Report on Form 10-K for the year ended December 31, 2022, and as of March 31, 2023, with the exception of these two assets, management believes that there are no obligations related to environmental remediation other than maintaining the affected sites in conformity with the relevant authority's mandates and filing the required documents. All such maintenance costs are expensed as incurred. We expect that resolution of the environmental matters relating to the above will not have a material impact on our business, assets, consolidated financial condition, results of operations or liquidity. However, we cannot be certain that we have identified all environmental liabilities at our properties, that all necessary remediation actions have been or will be undertaken at our properties or that we will be indemnified, in full or at all, in the event that such environmental liabilities arise.

Insurance Coverage

We carry insurance coverage on our properties of types and in amounts with deductibles that we believe are in line with coverage customarily obtained by owners of similar properties.

10. Equity

Shares and Units

An operating partnership unit of the Operating Partnership ("OP Unit") and a share of our common stock have essentially the same economic characteristics as they receive the same per unit profit distributions of the Operating Partnership. On the one-year anniversary of issuance, an OP Unit may be tendered for redemption for cash; however, we have sole and absolute discretion, and sufficient authorized common stock, to exchange OP Units for shares of common stock on a one-for-one basis instead of cash.

On May 16, 2019, the Empire State Realty Trust, Inc. Empire State Realty OP, L.P. 2019 Equity Incentive Plan ("2019 Plan") was approved by our shareholders. The 2019 Plan provides for grants to directors, employees and consultants of our company and operating partnership, including options, restricted stock, restricted stock units, stock appreciation rights, performance awards, dividend equivalents and other equity-based awards. An aggregate of approximately 11.0 million shares of our common stock are authorized for issuance under awards granted pursuant to the 2019 Plan. We will not issue any new equity awards under the First Amended and Restated Empire State Realty Trust, Inc. and Empire State Realty OP, L.P. 2013 Equity Incentive Plan ("2013 Plan", and collectively with the 2019 Plan, "the Plans"). The shares of Class A common stock underlying any awards under the 2019 Plan and the 2013 Plan that are forfeited, canceled or otherwise terminated, other than by exercise, will be added back to the shares of Class A common stock available for issuance under the 2019 Plan. Shares tendered or held back upon exercise of a stock option or settlement of an award under the 2019 Plan or the 2013 Plan to cover the exercise price or tax withholding and shares subject to a stock appreciation right that are not issued in connection with the stock settlement of the stock appreciation right upon exercise thereof, will not be added back to the shares of Class A common stock available for issuance under the 2019 Plan. In addition, shares of Class A common stock repurchased on the open market will not be added back to the shares of Class A common stock available for issuance under the 2019 Plan.

Long-term incentive plan ("LTIP") units are a special class of partnership interests in the Operating Partnership. Each LTIP unit awarded will be deemed equivalent to an award of one share of stock under the Plans, reducing the availability for other equity awards on a one-for-one basis.

The vesting period for LTIP units, if any, will be determined at the time of issuance. Under the terms of the LTIP units, the Operating Partnership will revalue for tax purposes its assets upon the occurrence of certain specified capital events, and any increase in valuation from the time of one such event to the next such event will be allocated first to the holders of LTIP units to equalize the capital accounts of such holders with the capital accounts of OP unitholders. Subject to any agreed upon exceptions, once vested and having achieved parity with OP unitholders, LTIP units are convertible into OP Units in the Operating Partnership on a one-for-one basis.

LTIP units subject to time-based vesting, whether vested or not, receive per unit distributions as OP units, which equal per share dividends (both regular and special) on our common stock. Market and performance-based LTIPs receive 10% of such distributions currently, unless and until such LTIP units are earned based on performance, at which time they will receive the accrued and unpaid 90% and will commence receiving 100% of such distributions thereafter.

As of March 31, 2023, there were 160,339,762 shares of Class A common stock, 988,974 shares of Class B common stock and 110,618,164 OP Units outstanding, of which 161,328,736 reflects the 59.3% non-controlling interest in the Operating Partnership.

Stock and Publicly Traded Operating Partnership Unit Repurchase Program

Our Board of Directors authorized the repurchase of up to $500 million of our Class A common stock and the Operating Partnership's Series ES, Series 250 and Series 60 operating partnership units from January 1, 2022 through December 31, 2023. Under the program, we may purchase our Class A common stock and the Operating Partnership's Series ES, Series 250 and Series 60 operating partnership units in accordance with applicable securities laws from time to time in the open market or in privately negotiated transactions. The timing, manner, price and amount of any repurchases will be determined by us and will be subject to stock price, availability, trading volume, general market conditions, and applicable securities laws. The authorization does not obligate us to acquire any particular amount of securities, and the program may be suspended or discontinued at our discretion without prior notice.

The following table summarizes our purchases of equity securities in each of the three months ended March 31, 2023:

Period	Total Number of Shares Purchased	Weighted Average Price Paid per Share	Maximum Approximate Dollar Value Available for Future Purchase (in thousands)
January 2023	90,054	$ 6.70	$ 409,221
February 2023	—	$ —	$ 409,221
March 2023	843,333	$ 6.04	$ 404,130

Private Perpetual Preferred Units

As of March 31, 2023, there were 4,664,038 Series 2019 Preferred Units ("Series 2019 Preferred Units") and 1,560,360 Series 2014 Private Perpetual Preferred Units ("Series 2014 Preferred Units") outstanding. The Series 2019 Preferred Units have a liquidation preference of $13.52 per unit and are entitled to receive cumulative preferential annual cash distributions of $0.70 per unit payable in arrears on a quarterly basis. The Series 2014 Preferred Units which have a liquidation preference of $16.62 per unit and are entitled to receive cumulative preferential annual cash distributions of $0.60 per unit payable in arrears on a quarterly basis. Both series are not redeemable at the option of the holders and are redeemable at our option only in the case of specific defined events.

Dividends and Distributions

Total dividends paid to common stockholders were $5.7 million and $5.9 million for the three months ended March 31, 2023 and 2022, respectively. Total distributions paid to OP unitholders were $3.0 million and $3.8 million for the three months ended March 31, 2023 and 2022, respectively. Total distributions paid to preferred unitholders were $1.1 million and $1.1 million for the three months ended March 31, 2023 and 2022, respectively.

Incentive and Share-Based Compensation

The Plans provide for grants to directors, employees and consultants consisting of stock options, restricted stock, dividend equivalents, stock payments, performance shares, LTIP units, stock appreciation rights and other incentive awards. An aggregate of 11.0 million shares of our common stock is authorized for issuance under awards granted pursuant to the 2019 Plan, and as of March 31, 2023, 4.4 million shares of common stock remain available for future issuance.

In March 2023, we made grants of LTIP units to executive officers under the 2019 Plan, including a total of 552,412 LTIP units that are subject to time-based vesting, 834,456 LTIP units that are subject to market-based vesting and 679,969 units that are subject to performance-based vesting with fair market values of $3.2 million, $3.9 million and $3.9 million, respectively. In March 2023, we made grants of LTIP units and restricted stock to certain other employees under the 2019 Plan, including a total of 229,308 LTIP units and 370,465 shares of restricted stock that are subject to time-based vesting, 111,942 LTIP units that are subject to market-based vesting and 91,211 LTIP units that are subject to performance-based vesting, with fair market values of $1.5 million and $2.6 million, respectively, for the time-based vesting awards, $0.6 million for the market-based vesting awards and $0.6 million for the performance-based vesting awards. The awards subject to time-based vesting vest ratably over four years, subject generally to the grantee's continued employment, with the first installment vesting on January 1, 2024. The vesting of the LTIP units subject to market-based vesting is based on the achievement of relative total stockholder return hurdles over a three-year performance period, commencing on January 1, 2023. The vesting of the LTIP units subject to performance-based vesting is based on the achievement of (i) operational metrics over a one-year performance period, subject to a three-year absolute TSR modifier, and (ii) environmental, social and governance ("ESG") metrics over a three-year performance period, in each case, commencing on January 1, 2023. Following the completion of the respective performance periods, our Compensation and Human Capital Committee will determine the number of LTIP units to which the grantee is entitled based on our performance relative to the performance hurdles set forth in the LTIP unit award agreements the grantee entered in connection with the award grant. These LTIP units then vest in two equal installments, on January 1, 2025 and December 31, 2026, subject generally to the grantee's continued employment on those dates.

In March 2023, we also made one-time additional grants of LTIP units to certain non-executive employees under the 2019 Plan. At such time, we granted to certain other employees a total of 152,542 LTIP units that are subject to time-based vesting, with a fair market value of $1.0 million that vest over four and five year periods.

In 2023, our named executive officers could elect to receive their annual incentive bonus in any combination of (i) cash or vested LTIPs at the face amount of such bonus or (ii) time-vesting LTIPs which would vest over three years, subject to continued employment, at a premium over such face amount (120% for awards granted in 2021, 2022, and 2023; 125% for years prior to 2021). In March 2023, we made grants of LTIP units to executive officers under the 2019 Plan in connection with the 2022 bonus election program. We granted to executive officers a total of 521,571 LTIP units that are subject to time-based vesting with a fair market value of $3.0 million. Of these LTIP units, 446,376 LTIP units vest ratably over three years from January 1, 2023, subject generally to the grantee's continued employment. The first installment vests on January 1, 2024, and the remainder will vest thereafter in two equal annual installments on January 1, 2025 and January 1, 2026. We also granted to our retired general counsel 75,195 LTIP units that vested immediately on the grant date.

Share-based compensation for time-based equity awards is measured at the fair value of the award on the date of grant and recognized as an expense on a straight-line basis over the shorter of (i) the stated vesting period, which is generally three, four or five years, or (ii) the period from the date of grant to the date the employee becomes retirement eligible, which may occur upon grant. An employee is retirement eligible when the employee attains the (i) age of 65 for awards granted in 2020 and after and age of 60 for awards granted before 2020 and (ii) the date on which the employee has first completed ten years of continuous service with us or our affiliates. Share-based compensation for market-based equity awards and performance-based equity awards is measured at the fair value of the award on the date of grant and recognized as an expense on a straight-line basis over three or four years. Additionally, for the performance-based equity awards, we assess, at each reporting period, whether it is probable that the performance conditions will be satisfied. We recognize expense respective to the number of awards we expect to vest at the conclusion of the measurement period. Changes in estimate are accounted for in the period of change through a cumulative catch-up adjustment.

For the market-based LTIP units, the fair value of the awards was estimated using a Monte Carlo Simulation model and discounted for the restriction period during which the LTIP units cannot be redeemed or transferred and the uncertainty regarding if, and when, the book capital account of the LTIP units will equal that of the common units. Our stock price, along with the prices of the comparative indexes, is assumed to follow the Geometric Brownian Motion Process. Geometric Brownian Motion is a common assumption when modeling in financial markets, as it allows the modeled quantity (in this case the stock price) to vary randomly from its current value and take any value greater than zero. The volatilities of the returns on our stock price and the comparative indexes were estimated based on implied volatilities and historical volatilities using an appropriate look-back period. The expected growth rate of the stock prices over the performance period is determined with consideration of the risk-free rate as of the grant date. For LTIP unit awards that are time or performance based, the fair value of the awards was estimated based on the fair value of our stock at the grant date discounted for the restriction period during which the LTIP units cannot be redeemed or transferred and the uncertainty regarding if, and when, the book capital account of the LTIP units will equal that of the common units. For restricted stock awards, the fair value of the awards is based on the market price of our stock at the grant date.

LTIP units and restricted stock issued during the three months ended March 31, 2023 were valued at $20.2 million. The weighted average per unit or share fair value was $5.69 for grants issued in 2023. The fair value per unit or share granted in 2023 was estimated on the respective dates of grant using the following assumptions: an expected life from 2.0 to 5.3 years, a dividend rate of 1.7%, a risk-free interest rate from 4.4% to 5.0%, and an expected price volatility from 35.0% to 46.0%. No other stock options, dividend equivalents, or stock appreciation rights were issued or outstanding in 2023.

The following is a summary of restricted stock and LTIP unit activity for the three months ended March 31, 2023:

	Restricted Stock	Time-based LTIPs	Market-based LTIPs	Performance-based LTIPs	Weighted Average Grant Fair Value
Unvested balance at December 31, 2022	359,293	2,713,522	4,070,537	510,989	$ 6.69
Vested	(106,139)	(997,732)	(274,402)	(1,222)	7.78
Granted	370,465	1,455,833	946,398	771,180	5.69
Forfeited or unearned	(1,221)	—	(1,645,223)	(8,337)	4.27
Unvested balance at March 31, 2023	622,398	3,171,623	3,097,310	1,272,610	6.56

The time-based LTIPs and restricted stock awards are treated for accounting purposes as immediately vested upon the later of (i) the date the grantee attains the age of 60 or 65, as applicable, and (ii) the date on which grantee has first completed ten years of continuous service with our company or its affiliates. For award agreements that qualify, we recognize noncash compensation expense on the grant date for the time-based awards and ratably over the vesting period for the market-based and performance-based awards, and accordingly, we recognized $0.7 million and $1.0 million for the three months ended March 31, 2023 and 2022, respectively. Unrecognized compensation expense was $4.2 million at March 31, 2023, which will be recognized over a weighted average period of 2.9 years.

For the remainder of the LTIP unit and restricted stock awards, we recognize noncash compensation expense ratably over the vesting period, and accordingly, we recognized noncash compensation expense of $3.7 million and $3.5 million for the three months ended March 31, 2023 and 2022, respectively. Unrecognized compensation expense was $36.2 million at March 31, 2023, which will be recognized over a weighted average period of 2.8 years.

Earnings Per Share

Earnings per share for the three months ended March 31, 2023 and 2022 is computed as follows (amounts in thousands, except per share amounts):

	Three Months Ended	
	March 31, 2023	March 31, 2022
Numerator - Basic:		
Net income (loss)	$ 11,694	$ (17,221)
Private perpetual preferred unit distributions	(1,050)	(1,050)
Net (income) loss attributable to non-controlling interests	(4,125)	6,982
Earnings allocated to unvested shares	—	(7)
Net income (loss) attributable to common stockholders – basic	$ 6,519	$ (11,296)
Numerator - Diluted:		
Net income (loss)	$ 11,694	$ (17,221)
Private perpetual preferred unit distributions	(1,050)	(1,050)
Net loss attributable to non-controlling interests in other partnerships	43	63
Earnings allocated to unvested shares	—	(7)
Net income (loss) attributable to common stockholders – diluted	$ 10,687	$ (18,215)
Denominator:		
Weighted average shares outstanding – basic	161,339	169,731
Operating partnership units	103,154	104,028
Effect of dilutive securities:		
Stock-based compensation plans	704	—
Weighted average shares outstanding – diluted	265,197	273,759
Earnings per share:		
Basic	$ 0.04	$ (0.07)
Diluted	$ 0.04	$ (0.07)

There were zero and 194 antidilutive shares and LTIP units for the three months ended March 31, 2023 and 2022, respectively.

11. Related Party Transactions

Supervisory Fee Revenue

We earned supervisory fees from entities affiliated with Anthony E. Malkin, our Chairman, President and Chief Executive Officer, of $0.2 million and $0.2 million for the three months ended March 31, 2023 and 2022, respectively. These fees are included within third-party management and other fees.

Property Management Fee Revenue

We earned property management fees from entities affiliated with Anthony E. Malkin of $0.1 million and $0.1 million for the three months ended March 31, 2023 and 2022, respectively. These fees are included within third-party management and other fees.

Other

We receive rent generally at the market rental rate for 5,447 square feet of leased space from entities affiliated with Anthony E. Malkin at one of our properties. Under the lease, the tenant has the right to cancel such lease without special payment on 90 days' notice. We also have a shared use agreement with such tenant, to occupy a portion of the leased premises as the office location for Peter L. Malkin, our chairman emeritus and employee, utilizing approximately 15% of the space, for which we pay to such tenant an allocable pro rata share of the cost. We also have agreements with these entities and excluded properties and businesses to provide them with general computer-related support services. Total aggregate revenue was $0.1 million and $0.1 million for the three months ended March 31, 2023 and 2022, respectively.

As disclosed in greater detail in our Annual Report on Form 10-K for the year ended December 31, 2022, in connection with the sale of our Westport retail assets in February 2023, we advanced a loan to the buyer to facilitate closing with a principal amount of $0.6 million, which bears interest at SOFR plus 3.5% and requires repayment of principal to the extent of available cash flow of the property. As of March 31, 2023, the amount outstanding under the loan is $0.6 million and is recorded as part of amounts due to affiliated companies, net which is included in accounts payable and accrued expenses on the condensed consolidated balance sheet.

12. Segment Reporting

We have identified two reportable segments: (1) real estate and (2) observatory. Our real estate segment includes all activities related to the ownership, management, operation, acquisition, redevelopment, repositioning and disposition of our traditional real estate assets. Our observatory segment includes the operation of the 86th and 102nd floor observatories at the Empire State Building. These two lines of businesses are managed separately because each business requires different support infrastructures, provides different services and has dissimilar economic characteristics such as investments needed, stream of revenues and marketing strategies. We account for intersegment sales and rents as if the sales or rents were to third parties, that is, at current market prices.

The following tables provide components of segment net income (loss) for each segment for the three and three months ended March 31, 2023 and 2022 (amounts in thousands):

	Three Months Ended March 31, 2023			
	Real Estate	Observatory	Intersegment Elimination	Total
Revenues:				
Rental revenue	$ 140,091	$ —	$ —	$ 140,091
Intercompany rental revenue	15,914	—	(15,914)	—
Observatory revenue	—	22,154	—	22,154
Third-party management and other fees	427	—	—	427
Other revenue and fees	1,950	—	—	1,950
Total revenues	158,382	22,154	(15,914)	164,622
Operating expenses:				
Property operating expenses	42,044	—	—	42,044
Intercompany rent expense	—	15,914	(15,914)	—
Ground rent expenses	2,331	—	—	2,331
General and administrative expenses	15,708	—	—	15,708
Observatory expenses	—	7,855	—	7,855
Real estate taxes	31,788	—	—	31,788
Depreciation and amortization	47,364	44	—	47,408
Total operating expenses	139,235	23,813	(15,914)	147,134
Total operating income (loss)	19,147	(1,659)	—	17,488
Other income (expense):				
Interest income	2,558	37	—	2,595
Interest expense	(25,304)	—	—	(25,304)
Gain on sale of property	15,696	—	—	15,696
Income (loss) before income taxes	12,097	(1,622)	—	10,475
Income tax (expense) benefit	(198)	1,417	—	1,219
Net income (loss)	$ 11,899	$ (205)	$ —	$ 11,694
Segment assets	$ 3,903,661	$ 253,702	$ —	$ 4,157,363
Expenditures for segment assets	$ 34,536	$ 58	$ —	$ 34,594

	Three Months Ended March 31, 2022			
	Real Estate	Observatory	Intersegment Elimination	Total
Revenues:				
Rental revenue	$ 147,514	$ —	$ —	$ 147,514
Intercompany rental revenue	10,620	—	(10,620)	—
Observatory revenue	—	13,241	—	13,241
Lease termination fees	1,173	—	—	1,173
Third-party management and other fees	310	—	—	310
Other revenue and fees	1,796	—	—	1,796
Total revenues	161,413	13,241	(10,620)	164,034
Operating expenses:				
Property operating expenses	38,644	—	—	38,644
Intercompany rent expense	—	10,620	(10,620)	—
Ground rent expense	2,331	—	—	2,331
General and administrative expenses	13,686	—	—	13,686
Observatory expenses	—	6,215	—	6,215
Real estate taxes	30,004	—	—	30,004
Depreciation and amortization	67,071	35	—	67,106
Total operating expenses	151,736	16,870	(10,620)	157,986
Total operating income (loss)	9,677	(3,629)	—	6,048
Other income (expense):				
Interest income	149	—	—	149
Interest expense	(25,014)	—	—	(25,014)
Loss before income taxes	(15,188)	(3,629)	—	(18,817)
Income tax (expense) benefit	(144)	1,740	—	1,596
Net loss	$ (15,332)	$ (1,889)	$ —	$ (17,221)
Segment assets	$ 3,998,791	$ 244,539	$ —	$ 4,243,330
Expenditures for segment assets	$ 38,884	$ 291	$ —	$ 39,175

13. Subsequent Events

None.

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

Unless the context otherwise requires or indicates, references in this section to "we," "our," and "us" refer to our company and its consolidated subsidiaries. The following discussion related to our consolidated financial statements should be read in conjunction with the financial statements and the notes thereto appearing elsewhere in this Quarterly Report on Form 10-Q and in our Annual Report on Form 10-K for the year ended December 31, 2022.

FORWARD-LOOKING STATEMENTS

This Quarterly Report on Form 10-Q contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended (the "Securities Act"), and Section 21E of the Securities Exchange Act of 1934, as amended (the "Exchange Act"). We intend these forward-looking statements to be covered by the safe harbor provisions for forward-looking statements contained in the Private Securities Litigation Reform Act of 1995 and are including this statement for purposes of complying with those safe harbor provisions. You can identify forward-looking statements by the use of forward-looking terminology such as "believes," "expects," "may," "will," "should," "seeks," "approximately," "intends," "plans," "estimates," "contemplates," "aims," "continues," "would" or "anticipates" or the negative of these words and phrases or similar words or phrases. In particular, statements pertaining to our capital resources, portfolio performance, dividend policy and results of operations contain forward-looking statements. Likewise, all of our statements regarding anticipated growth in our portfolio from operations, acquisitions and anticipated market conditions, demographics and results of operations are forward-looking statements.

Forward-looking statements are subject to substantial risks and uncertainties, many of which are difficult to predict and are generally beyond our control, and you should not rely on them as predictions of future events. Forward-looking statements depend on assumptions, data or methods which may be incorrect or imprecise, and we may not be able to realize them. We do not guarantee that the transactions and events described will happen as described (or that they will happen at all).

The following factors, among others, could cause actual results and future events to differ materially from those set forth or contemplated in the forward-looking statements: (i) economic, market, political and social impact of, and uncertainty relating to, any pandemic; (ii) a failure of conditions or performance regarding any event or transaction described herein, (iii) resolution of legal proceedings involving the Company; (iv) reduced demand for office, multifamily or retail space, including as a result of the changes in the use of office space and remote work; (v) changes in our business strategy; (vi) changes in technology and market competition that affect utilization of our office, retail, observatory, broadcast or other facilities; (vii) changes in domestic or international tourism, including due to health crises and pandemics, geopolitical events, including global hostilities, currency exchange rates, and/or competition from other observatories in New York City, any or all of which may cause a decline in Observatory visitors; (viii) defaults on, early terminations of, or non-renewal of, leases by tenants; (ix) increases in the Company's borrowing costs as a result of changes in interest rates and other factors, including the phasing out of LIBOR; (x) declining real estate valuations and impairment charges; (xi) termination of our ground leases; (xii) changes in our ability to pay down, refinance, restructure or extend our indebtedness as it becomes due and potential limitations on our ability to borrow additional funds in compliance with drawdown conditions and financial covenants; (xiii) decreased rental rates or increased vacancy rates; (xiv) our failure to execute any newly planned capital project successfully or on the anticipated timeline or budget; (xv) difficulties in identifying and completing acquisitions; (xvi) risks related to any development project (including our Metro Tower potential development site); (xvii) impact of changes in governmental regulations, tax laws and rates and similar matters; (xviii) our failure to qualify as a REIT; (xix) environmental uncertainties and risks related to climate change, adverse weather conditions, rising sea levels and natural disasters; (xx) incurrence of taxable capital gain on disposition of an asset due to failure of use or compliance with a 1031 exchange program; and (xxi) accuracy of our methodologies and estimates regarding ESG metrics and goals, tenant willingness and ability to collaborate in reporting ESG metrics and meeting ESG goals, and impact of governmental regulation on our ESG efforts. For a further discussion of these and other factors that could impact the Company's future results, performance or transactions, see the section entitled "Risk Factors" in the Company's Annual Report on Form 10-K for the year ended December 31, 2022, and other risks described in documents subsequently filed by the Company from time to time with the Securities and Exchange Commission.

While forward-looking statements reflect the Company's good faith beliefs, they are not guarantees of future performance. The Company disclaims any obligation to update or revise publicly any forward-looking statement to reflect changes in underlying assumptions or factors, new information, data or methods, future events, or other changes after the date of this Quarterly Report on Form 10-Q, except as required by applicable law. Prospective investors should not place undue reliance on any forward-looking statements, which are based only on information currently available to the Company.

Overview

Highlights for the three months ended March 31, 2023

- Net income attributable to common stockholders of $6.5 million.
- Core Funds From Operations ("Core FFO") of $43.0 million attributable to common stockholders and the operating partnership.
- Commercial portfolio 89.4% leased, Manhattan office portfolio 90.7% leased.
- Signed a total of 202,057 rentable square feet of new, renewal, and expansion leases.

- Empire State Building Observatory generated $14.3 million of net operating income and visitor count increased 65% year over year.

- Repurchased $11.6 million of our common stock in the first quarter of 2023 and through April 25, 2023.

Results of Operations

The discussion below relates to our financial condition and results of operations for the three months ended March 31, 2023 and 2022, respectively.

Three Months Ended March 31, 2023 Compared to the Three Months Ended March 31, 2022

The following table summarizes our historical results of operations for the three months ended March 31, 2023 and 2022 (amounts in thousands):

	Three Months Ended March 31,							
	2023			2022			Change	%
	Real Estate Segment	Observatory Segment	Total	Real Estate Segment	Observatory Segment	Total		
Revenues:								
Rental revenue	$ 140,091	$ —	$ 140,091	$ 147,514	$ —	$ 147,514	$ (7,423)	(5.0)%
Observatory revenue	—	22,154	22,154	—	13,241	13,241	8,913	67.3
Lease termination fees	—	—	—	1,173	—	1,173	(1,173)	(100.0)
Third-party management and other fees	427	—	427	310	—	310	117	37.7
Other revenues and fees	1,950	—	1,950	1,796	—	1,796	154	8.6
Total revenues	142,468	22,154	164,622	150,793	13,241	164,034	588	0.4
Operating expenses:								
Property operating expenses	42,044	—	42,044	38,644	—	38,644	(3,400)	(8.8)
Ground rent expenses	2,331	—	2,331	2,331	—	2,331	—	—
General and administrative expenses	15,708	—	15,708	13,686	—	13,686	(2,022)	(14.8)
Observatory expenses	—	7,855	7,855	—	6,215	6,215	(1,640)	(26.4)
Real estate taxes	31,788	—	31,788	30,004	—	30,004	(1,784)	(5.9)
Depreciation and amortization	47,364	44	47,408	67,071	35	67,106	19,698	29.4
Total operating expenses	139,235	7,899	147,134	151,736	6,250	157,986	10,852	6.9
Operating income	3,233	14,255	17,488	(943)	6,991	6,048	11,440	189.2
Intercompany rent revenue (expense)	15,914	(15,914)	—	10,620	(10,620)	—		
Other income (expense):								
Interest income	2,558	37	2,595	149	—	149	2,446	1,641.6
Interest expense	(25,304)	—	(25,304)	(25,014)	—	(25,014)	(290)	(1.2)
Gain on sale of property	15,696	—	15,696	—	—	—	15,696	—
Income (loss) before income taxes	12,097	(1,622)	10,475	(15,188)	(3,629)	(18,817)	29,292	155.7
Income tax (expense) benefit	(198)	1,417	1,219	(144)	1,740	1,596	(377)	23.6
Net income (loss)	11,899	(205)	11,694	(15,332)	(1,889)	(17,221)	28,915	167.9
Net (income) loss attributable to non-controlling interests:								
Non-controlling interests in the Operating Partnership	(4,168)	—	(4,168)	6,919	—	6,919	(11,087)	(160.2)
Non-controlling interests in other partnerships	43	—	43	63	—	63	(20)	(31.7)
Private perpetual preferred unit distributions	(1,050)	—	(1,050)	(1,050)	—	(1,050)	—	—
Net income (loss) attributable to common stockholders	$ 6,724	$ (205)	$ 6,519	$ (9,400)	$ (1,889)	$ (11,289)	$ 17,808	157.7 %

<u>Real Estate Segment</u>

Rental Revenue

The decrease in rental revenue was primarily attributable to reserves recorded on straight-line rent receivables related to a one-time reserve tied to Signature Bank entering receivership. See "Financial Statements - Note 8. Leases" for more information.

Other Revenues and Fees

The increase in other revenues and fees was due to higher food and beverage sales, parking income and bad debt recovery income.

Property Operating Expenses

The increase in property operating expenses reflects higher payroll and repairs and maintenance due to increased building utilization at our office properties.

General and Administrative Expenses

The increase in general and administrative expenses primarily reflects higher payroll costs and equity compensation.

Real Estate Taxes

Higher real estate taxes primarily attributable to higher assessed values for multiple properties and the inclusion of real estate taxes from our recently acquired multifamily property.

Depreciation and Amortization

The decrease in depreciation and amortization reflects accelerated depreciation at one property recorded in the three months ended March 31, 2022.

Interest Income

The increase reflects higher interest rates in the three months ended March 31, 2023 compared to the three months ended March 31, 2022.

Interest Expense

Interest expense was consistent with prior year.

Gain on Sale of Property

Reflects the gain on sale of 69-97 and 103-107 Main Street in Westport, Connecticut in February 2023.

Observatory Segment

Observatory Revenue

Observatory revenues were higher driven by increased visitation as compared to the three months ended March 31, 2022.

Observatory Expenses

The increase in observatory expenses was driven by increased operating hours, which increased variable costs such as labor, union, security, cleaning and maintenance costs.

Income Taxes

The decrease in income tax benefit was attributable to lower taxable loss for the observatory segment for the three months ended March 31, 2023.

Liquidity and Capital Resources

Liquidity is a measure of our ability to meet potential cash requirements, including ongoing commitments to repay borrowings, fund and maintain our assets and operations, including lease-up costs, fund our redevelopment and repositioning programs, acquire properties, make distributions to our securityholders and fulfill other general business needs. Based on the historical experience of our management and our business strategy, in the foreseeable future we anticipate we will generate positive cash flows from operations. In order to qualify as a REIT, we are required under the Internal Revenue Code of 1986 to distribute to our stockholders, on an annual basis, at least 90% of our REIT taxable income, determined without regard to the deduction for dividends paid and excluding net capital gains. We expect to make quarterly distributions, as required, to our securityholders.

While we may be able to anticipate and plan for certain liquidity needs, there may be unexpected increases in uses of cash that are beyond our control and which would affect our financial condition and results of operations. For example, we may be required to comply with new laws or regulations that cause us to incur unanticipated capital expenditures for our properties, thereby increasing our liquidity needs. Even if there are no material changes to our anticipated liquidity requirements, our sources of liquidity may be fewer than, and the funds available from such sources may be less than, anticipated or needed. Our primary sources of liquidity will generally consist of cash on hand and cash generated from our operating activities, debt issuances and unused borrowing capacity under our unsecured revolving credit facility. We expect to meet our short-term liquidity requirements, including distributions, operating expenses, working capital, debt service, and capital expenditures from cash flows from operations, cash on hand, debt issuances, and available borrowing capacity under our unsecured revolving

credit facility. The availability of these borrowings is subject to the conditions set forth in the applicable loan agreements. We expect to meet our long-term capital requirements, including acquisitions, redevelopments and capital expenditures through our cash flows from operations, cash on hand, our unsecured revolving credit facility, mortgage financings, debt issuances, common and/or preferred equity issuances and asset sales. Our properties require periodic investments of capital for individual lease related tenant improvements allowances, general capital improvements and costs associated with capital expenditures. Our overall leverage will depend on our mix of investments and the cost of leverage. Our charter does not restrict the amount of leverage that we may use.

At March 31, 2023, we had $272.6 million available in cash and cash equivalents, and $850 million available under our unsecured revolving credit facility.

As of March 31, 2023, we had approximately $2.3 billion of total consolidated indebtedness outstanding, with a weighted average interest rate of 3.9% and a weighted average maturity of 6.2 years. As of March 31, 2023, excluding principal amortization, we have no outstanding debt maturing until November 2024.

Portfolio Transaction Activity

On February 1, 2023, we closed on the sale of 69-97 and 103-107 Main Street in Westport, Connecticut at a gross asset valuation of $40.0 million.

In December 2022, we entered into a purchase and sale agreement for 500 Mamaroneck Avenue in Harrison, NY at a gross asset valuation of $53.0 million. Subsequent to March 31, 2023, the sale of this asset closed on April 5, 2023.

Unsecured Revolving Credit and Term Loan Facilities

See "Financial Statements - Note 5. Debt" for a summary of our unsecured revolving credit and term loan facilities.

Mortgage Debt

As of March 31, 2023, our consolidated mortgage notes payable amounted to $898.5 million. The first maturity is in November 2024. See "Financial Statements - Note 5. Debt" for more information on mortgage debt.

Senior Unsecured Notes

The terms of the senior unsecured notes include customary covenants, including limitations on liens, investment, distributions, debt, fundamental changes, and transactions with affiliates and require certain customary financial reports. It also requires compliance with financial ratios including a maximum leverage ratio, a maximum secured leverage ratio, a minimum fixed charge coverage ratio, a minimum unencumbered interest coverage ratio, and a maximum unsecured leverage ratio. The agreements also contain customary events of default (subject in certain cases to specified cure periods), including but not limited to non-payment, breach of covenants, representations or warranties, cross defaults, bankruptcy or other insolvency events, judgments, ERISA events, the occurrence of certain change of control transactions and loss of real estate investment trust qualification. As of March 31, 2023, we were in compliance with the covenants under the outstanding senior unsecured notes.

Financial Covenants

As of March 31, 2023, we were in compliance with the following financial covenants:

Financial covenant	Required	March 31, 2023	In Compliance
Maximum total leverage	< 60%	36.9 %	Yes
Maximum secured leverage	< 40%	14.5 %	Yes
Minimum fixed charge coverage	> 1.50x	2.8x	Yes
Minimum unencumbered interest coverage	> 1.75x	5.0x	Yes
Maximum unsecured leverage	< 60%	27.0 %	Yes

Leverage Policies

We expect to employ leverage in our capital structure in amounts determined from time to time by our board of directors. Although our board of directors has not adopted a policy that limits the total amount of indebtedness that we may incur, we anticipate that our board of directors will consider a number of factors in evaluating our level of indebtedness from time to time, as well as the amount of such indebtedness that will be either fixed or floating rate. Our charter and bylaws do not limit the amount or percentage of indebtedness that we may incur nor do they restrict the form in which our indebtedness will be taken (including, but not limited to, recourse or non-recourse debt and cross-collateralized debt). Our overall leverage will depend on our mix of investments and the cost of leverage. Our board of directors may from time to time modify our leverage policies in light of the then-current economic conditions, relative costs of debt and equity capital, market values of our properties, general market conditions for debt and equity securities, fluctuations in the market price of our common stock, growth and acquisition opportunities and other factors.

Capital Expenditures

The following tables summarize our leasing commission costs, tenant improvement costs and our capital expenditures for each of the periods presented (dollars in thousands, except per square foot amounts).

Office Properties[(1)]

	Three months ended March 31,	
Total New Leases, Expansions, and Renewals	**2023**	**2022**
Number of leases signed[(2)]	18	42
Total square feet	201,145	317,633
Leasing commission costs per square foot[(3)]	$ 20.99	$ 19.70
Tenant improvement costs per square foot[(3)]	83.39	66.26
Total leasing commissions and tenant improvement costs per square foot[(3)]	$ 104.38	$ 85.96

Retail Properties[(4)]

	Three months ended March 31,	
Total New Leases, Expansions, and Renewals	**2023**	**2022**
Number of leases signed[(2)]	1	2
Total square feet	912	1,013
Leasing commission costs per square foot[(3)]	$ —	$ 35.54
Tenant improvement costs per square foot[(3)]	—	—
Total leasing commissions and tenant improvement costs per square foot[(3)]	$ —	$ 35.54

(1) Excludes an aggregate of 498,196 and 504,953 rentable square feet of retail space in our Manhattan office properties in 2023 and 2022, respectively. Includes the Empire State Building broadcasting licenses and observatory operations.
(2) Presents a renewed and expansion lease as one lease signed.
(3) Presents all tenant improvement and leasing commission costs as if they were incurred in the period in which the lease was signed, which may be different than the period in which they were actually paid.
(4) Includes an aggregate of 498,196 and 504,953 rentable square feet of retail space in our Manhattan office properties in 2023 and 2022, respectively. Excludes the Empire State Building broadcasting licenses and observatory operations.

	Three months ended March 31,	
	2023	**2022**
Total Portfolio		
Capital expenditures [(1)]	$ 12,945	$ 10,138

(1) Excludes tenant improvements and leasing commission costs.

As of March 31, 2023, we expect to incur additional costs relating to obligations under existing lease agreements of approximately $107.9 million for tenant improvements and leasing commissions. We intend to fund the tenant improvements and leasing commission costs through a combination of operating cash flow, cash on hand, additional property level mortgage financings and borrowings under the unsecured revolving credit facility.

Capital expenditures are considered part of both our short-term and long-term liquidity requirements. We intend to fund capital improvements through a combination of operating cash flow, cash on hand and borrowings under the unsecured revolving credit facility.

Off-Balance Sheet Arrangements

As of March 31, 2023, we did not have any off-balance sheet arrangements.

Distribution Policy

We intend to distribute our net taxable income to our security holders in a manner intended to satisfy REIT distribution requirements and to avoid U.S. federal income tax liability on our income.

Before we pay any distribution, whether for U.S. federal income tax purposes or otherwise, we must first meet both our operating requirements and obligations to make payments of principal and interest, if any. However, under some circumstances, we may be required to use cash reserves, incur debt or liquidate assets at rates or times that we regard as unfavorable or make a taxable distribution of our shares in order to satisfy REIT distribution requirements.

Distribution to Equity Holders

Distributions and dividends amounting to $9.7 million and $10.8 million have been made to equity holders for the three months ended March 31, 2023 and 2022, respectively.

Stock and Publicly Traded Operating Partnership Unit Repurchase Program

Our Board of Directors authorized the repurchase of up to $500 million of our Class A common stock and the Operating Partnership's Series ES, Series 250 and Series 60 operating partnership units from January 1, 2022 through December 31, 2023. Under the program, we may purchase our Class A common stock and the Operating Partnership's Series ES, Series 250 and Series 60 operating partnership units in accordance with applicable securities laws from time to time in the open market or in privately negotiated transactions. The timing, manner, price and amount of any repurchases will be determined by us at our discretion and will be subject to stock price, availability, trading volume and general market conditions. The authorization does not obligate us to acquire any particular amount of securities, and the program may be suspended or discontinued at our discretion without prior notice. See "Financial Statements - Note 10. Equity" for a summary of our purchases of equity securities in each of the three months ended March 31, 2023.

Cash Flows

Comparison of Three Months Ended March 31, 2023 to the Three Months Ended March 31, 2022

Net cash. Cash and cash equivalents and restricted cash were $380.8 million and $482.7 million, respectively, as of March 31, 2023 and 2022. The decrease was primarily due to the acquisition of real estate property in December 2022 and higher spending for capital expenditures, partially offset by net proceeds from the sale of property in February 2023 and lower repurchases of common shares.

Operating activities. Net cash provided by operating activities increased by $18.7 million to $86.4 million due to changes in working capital.

Investing activities. Net cash used in investing activities decreased by $32.4 million to $2.6 million primarily due to net proceeds from the sale of 69-97 and 103-107 Main Street in Westport, Connecticut on February 1, 2023.

Financing activities. Net cash used in financing activities decreased by $7.1 million to $17.6 million primarily due to lower repurchases of common shares.

Net Operating Income ("NOI")

Our financial reports include a discussion of property net operating income, or NOI. NOI is a non-GAAP financial measure of performance. NOI is used by our management to evaluate and compare the performance of our properties and to determine trends in earnings and to compute the fair value of our properties as it is not affected by: (i) the cost of funds of the property owner, (ii) the impact of depreciation and amortization expenses as well as gains or losses from the sale of operating real estate assets that are included in net income computed in accordance with GAAP, (iii) acquisition expenses, loss on early extinguishment of debt and loss from derivative financial instruments, or (iv) general and administrative expenses and other gains and losses that are specific to the property owner. The cost of funds is eliminated from NOI because it is specific to the particular financing capabilities and constraints of the owner and because it is dependent on historical interest rates and other costs of capital as well as past decisions made by us regarding the appropriate mix of capital which may have changed or may change in the future. Depreciation and amortization expenses as well as gains or losses from the sale of operating real estate assets are eliminated because they may not accurately represent the actual change in value in our office or retail properties that result from use of the properties or changes in market conditions. While certain aspects of real property do decline in value over time in a manner that is reasonably captured by depreciation and amortization, the value of the properties as a whole have historically increased or decreased as a result of changes in overall economic conditions instead of from actual use of the property or the passage of time. Gains and losses from the sale of real property vary from property to property and are affected by market conditions at the time of sale which will usually change from period to period. These gains and losses can create distortions when comparing one period to another or when comparing our operating results to the operating results of other real estate companies that have not made similarly-timed purchases or sales. We believe that eliminating these costs from net income is useful to investors because the resulting measure captures the actual revenue, generated and actual expenses incurred in operating our properties as well as trends in occupancy rates, rental rates and operating costs.

However, the usefulness of NOI is limited because it excludes general and administrative costs, interest expense, depreciation and amortization expense and gains or losses from the sale of properties, and other gains and losses as stipulated by GAAP, the level of capital expenditures and leasing costs necessary to maintain the operating performance of our properties, all of which are significant economic costs. NOI may fail to capture significant trends in these components of net income which further limits its usefulness.

NOI is a measure of the operating performance of our properties but does not measure our performance as a whole. NOI is therefore not a substitute for net income as computed in accordance with GAAP. This measure should be analyzed in conjunction with net income computed in accordance with GAAP and discussions elsewhere in this Management's Discussion and Analysis of Financial Condition and Results of Operations regarding the components of net income that are eliminated in the calculation of NOI. Other companies may use different methods for calculating NOI or similarly titled measures and, accordingly, our NOI may not be comparable to similarly titled measures reported by other companies that do not define the measure exactly as we do.

The following table presents a reconciliation of our net income, the most directly comparable GAAP measure, to NOI for the periods presented (amounts in thousands):

	Three Months Ended March 31,	
	2023	2022
	(unaudited)	
Net income (loss)	$ 11,694	$ (17,221)
Add:		
General and administrative expenses	15,708	13,686
Depreciation and amortization	47,408	67,106
Interest expense	25,304	25,014
Income tax benefit	(1,219)	(1,596)
Less:		
Gain on sale of property	(15,696)	—
Third-party management and other fees	(427)	(310)
Interest income	(2,595)	(149)
Net operating income	$ 80,177	$ 86,530
Other Net Operating Income Data		
Straight-line rental revenue	$ 556	$ 2,595
Net increase in rental revenue from the amortization of above-and below-market lease assets and liabilities	$ 703	$ 1,784
Amortization of acquired below-market ground leases	$ 1,958	$ 1,958

Funds from Operations ("FFO")

We present below a discussion of FFO. We compute FFO in accordance with the “White Paper” on FFO published by the National Association of Real Estate Investment Trusts, or NAREIT, which defines FFO as net income (loss) (determined in accordance with GAAP), excluding impairment write-off of investments in depreciable real estate and investments in in-substance real estate investments, gains or losses from debt restructurings and sales of depreciable operating properties, plus real estate-related depreciation and amortization (excluding amortization of deferred financing costs), less distributions to non-controlling interests and gains/losses from discontinued operations and after adjustments for unconsolidated partnerships and joint ventures. FFO is a widely recognized non-GAAP financial measure for REITs that we believe, when considered with financial statements determined in accordance with GAAP, is useful to investors in understanding financial performance and providing a relevant basis for comparison among REITs. In addition, we believe FFO is useful to investors as it captures features particular to real estate performance by recognizing that real estate has generally appreciated over time or maintains residual value to a much greater extent than do other depreciable assets. Investors should review FFO, along with GAAP net income, when trying to understand an equity REIT’s operating performance. We present FFO because we consider it an important supplemental measure of our operating performance and believe that it is frequently used by securities analysts, investors and other interested parties in the evaluation of REITs. However, because FFO excludes depreciation and amortization and captures neither the changes in the value of our properties that result from use or market conditions nor the level of capital expenditures and leasing commissions necessary to maintain the operating performance of our properties, all of which have real economic effect and could materially impact our results of operations, the utility of FFO as a measure of performance is limited. There can be no assurance that FFO presented by us is comparable to similarly titled measures of other REITs. FFO does not represent cash generated from operating activities and should not be considered as an alternative to net income (loss) determined in accordance with GAAP or to cash flow from operating activities determined in accordance with GAAP. FFO is not indicative of cash available to fund ongoing cash needs, including the ability to make cash distributions. Although FFO is a measure used for comparability in assessing the performance of REITs, as the NAREIT White Paper only provides guidelines for computing FFO, the computation of FFO may vary from one company to another.

Modified Funds From Operations ("Modified FFO")

Modified FFO adds back an adjustment for any above or below-market ground lease amortization to traditionally defined FFO. We believe this a useful supplemental measure in evaluating our operating performance due to the non-cash accounting treatment under GAAP, which stems from the third quarter 2014 acquisition of two option properties following our formation transactions as they carry significantly below market ground leases, the amortization of which is material to our overall results. We present Modified FFO because we believe it is an important supplemental measure of our operating performance in that it adds back the non-cash amortization of below-market ground leases. There can be no assurance that Modified FFO presented by us is comparable to similarly titled measures of other REITs. Modified FFO does not represent cash generated from operating activities and should not be considered as an alternative to net income (loss) determined in accordance with GAAP or to cash flow from operating activities determined in accordance with GAAP.

Modified FFO is not indicative of cash available to fund ongoing cash needs, including the ability to make cash distributions.

Core Funds From Operations

Core FFO adds back to Modified FFO the following items: IPO litigation expense, severance expenses and loss on early extinguishment of debt. The company believes Core FFO is an important supplemental measure of its operating performance because it excludes items associated with its IPO and formation transactions and other non-recurring items. There can be no assurance that Core FFO presented by the company is comparable to similarly titled measures of other REITs. Core FFO does not represent cash generated from operating activities and should not be considered as an alternative to net income (loss) determined in accordance with GAAP or to cash flow from operating activities determined in accordance with GAAP. Core FFO is not indicative of cash available to fund ongoing cash needs, including the ability to make cash distributions. In future periods, we may also exclude other items from Core FFO that we believe may help investors compare our results.

The following table presents a reconciliation of our net income, the most directly comparable GAAP measure, to FFO, Modified FFO and Core FFO for the periods presented (amounts in thousands):

	Three Months Ended March 31,	
	2023	2022
	(unaudited)	
Net income (loss)	$ 11,694	$ (17,221)
Noncontrolling interests in other partnerships	43	63
Private perpetual preferred unit distributions	(1,050)	(1,050)
Real estate depreciation and amortization	46,024	65,414
Gain on sale of property	(15,696)	—
FFO attributable to common stockholders and the Operating Partnership	41,015	47,206
Amortization of below-market ground leases	1,958	1,958
Modified FFO attributable to common stockholders and the Operating Partnership	42,973	49,164
Loss on early extinguishment of debt	—	—
Core FFO attributable to common stockholders and the Operating Partnership	$ 42,973	$ 49,164
Weighted average shares and Operating Partnership Units		
Basic	264,493	273,759
Diluted	265,197	273,759

Factors That May Influence Future Results of Operations

Leasing

Due to the relatively small number of leases that are signed in any particular quarter, one or more larger leases may have a disproportionately positive or negative impact on average rent, tenant improvement and leasing commission costs for that period. As a result, we believe it is more appropriate when analyzing trends in average rent and tenant improvement and leasing commission costs to review activity over multiple quarters or years. Tenant improvement costs include expenditures for general improvements occurring concurrently with, but that are not directly related to, the cost of installing a new tenant. Leasing commission costs are similarly subject to significant fluctuations depending upon the length of leases being signed and the mix of tenants from quarter to quarter.

As of March 31, 2023, there were approximately 1.0 million rentable square feet of space in our portfolio available to lease (excluding leases signed but not yet commenced) representing 10.6% of the net rentable square footage of the properties in our portfolio. In addition, leases representing 4.6% and 6.7% of net rentable square footage of the properties in our portfolio will expire in 2023 and in 2024, respectively. These leases are expected to represent approximately 5.1% and 7.2%, respectively, of our annualized rent for such periods. Our revenues and results of operations can be impacted by expiring leases that are not renewed or re-leased or that are renewed or re-leased at base rental rates equal to, above or below the current average base rental rates. Further, our revenues and results of operations can also be affected by downtime after space is vacated and the costs we incur to re-lease available space, including payment of leasing commissions, redevelopments and build-to-suit remodeling that may not be borne by the tenant.

Observatory Operations

For the three months ended March 31, 2023, the observatory hosted 443,000 visitors, compared to 269,000 visitors for the same period in 2022. Our return of attendance to pre-pandemic levels is closely tied to national and international travel trends, our new reservations-only model of operation, and our desire to provide a better experience with fewer crowds to visitors from whom we receive higher revenues per person.

Observatory revenue for the three months ended March 31, 2023 was $22.2 million, compared to $13.2 million for the three months ended March 31, 2022. The observatory revenue increase was driven by higher visitation levels in 2023.

Observatory revenues and admissions are dependent upon the following: (i) the number of tourists (domestic and international) who come to New York City and visit the observatory, as well as any related tourism trends; (ii) the prices per admission that can be charged; (iii) seasonal trends affecting the number of visitors to the observatory; (iv) competition, in particular from other new and existing observatories; and (v) weather trends.

Critical Accounting Estimates

Refer to our Annual Report on Form 10-K for the year ended December 31, 2022 for a discussion of our critical accounting estimates. There were no material changes to our critical accounting estimates disclosed in our Annual Report on Form 10-K for the year ended December 31, 2022.

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

Our future income, cash flows and fair values relevant to financial instruments are dependent upon prevalent market interest rates. We are exposed to interest rate changes primarily on our unsecured revolving credit facility and debt refinancings. In order to mitigate our interest rate risk, we may borrow at fixed rates or may enter into derivative financial instruments such as interest rate swaps or caps on floating rate financial instruments. We are not subject to foreign currency risk and we do not enter into derivative or interest rate transactions for speculative purposes.

As of March 31, 2023, we have interest rate LIBOR swap and cap agreements and SOFR swap agreements with an aggregate notional value of $574.4 million and which mature between October 1, 2024 and November 1, 2033. The "variable to fixed" interest rate swaps have been designated as cash flow hedges and are deemed highly effective with fair values in an asset and liability position of $12.5 million and $(2.2) million, respectively, and are included in prepaid expenses and other assets and in accounts payable and accrued expenses, respectively, on the condensed consolidated balance sheet as of March 31, 2023. Given the phasing out of LIBOR, we have entered into SOFR swap agreements to begin the replacement of our LIBOR swap agreements. We will continue to work with our lenders and counterparties to replace or modify, as appropriate, the interest rate provisions in our other LIBOR swap and cap agreements.

As of March 31, 2023, the weighted average interest rate on the $2.3 billion of fixed-rate indebtedness outstanding was 3.9% per annum, with maturities at various dates through March 17, 2035.

As of March 31, 2023, the fair value of our outstanding debt was approximately $2.1 billion, which was approximately $180.9 million less than the book value as of such date. Interest risk amounts were determined by considering the impact of hypothetical interest rates on our financial instruments. These analyses do not consider the effect of any change in overall economic activity that could occur in that environment. Further, in the event of a change of that magnitude, we may take actions to further mitigate our exposure to the change. However, due to the uncertainty of the specific actions that would be taken and their possible effects, these analyses assume no changes in our financial structure.

ITEM 4. CONTROLS AND PROCEDURES

Evaluation of Disclosure Controls and Procedures

We maintain disclosure controls and procedures (as such term is defined in Rule 13a-15(e) and 15d-15(e) under the Exchange Act) that are designed to ensure that information required to be disclosed in our reports under the Exchange Act is processed, recorded, summarized and reported within the time periods specified in the SEC’s rules and regulations and that such information is accumulated and communicated to management, including our Chief Executive Officer and our Executive Vice President, Chief Operating Officer and Chief Financial Officer, as appropriate, to allow for timely decisions regarding required disclosure. In designing and evaluating the disclosure controls and procedures, management recognizes that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving the desired control objectives, and management is required to apply its judgment in evaluating the cost-benefit relationship of possible controls and procedures.

As of March 31, 2023, the end of the period covered by this report, we carried out an evaluation, under the supervision and with the participation of management, including our Chief Executive Officer and our Executive Vice President, Chief Operating Officer and Chief Financial Officer, regarding the effectiveness of our disclosure controls and procedures at the end of the period covered by this report. Based on the foregoing, our Chief Executive Officer and our Executive Vice President, Chief Operating Officer and Chief Financial Officer concluded, as of that time, that our disclosure controls and procedures were effective in ensuring that information required to be disclosed by us in reports filed or submitted under the Exchange Act (i) is processed, recorded, summarized and reported within the time periods specified in the SEC’s rules and forms and (ii) is accumulated and communicated to our management, including our Chief Executive Officer and our Executive Vice President, Chief Operating Officer and Chief Financial Officer, as appropriate to allow for timely decisions regarding required disclosure.

Changes in Internal Control over Financial Reporting

No changes to our internal control over financial reporting were identified in connection with the evaluation referenced above that occurred during the period covered by this report that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

PART II. OTHER INFORMATION

ITEM 1. LEGAL PROCEEDINGS

See “Financial Statements – Note 9. Commitments and Contingencies” for a description of legal proceedings.

ITEM 1A. RISK FACTORS

In addition to the other information set forth in this report, you should carefully consider the risk factors included in the section entitled “Risk Factors” in our Annual Report on Form 10-K for the year ended December 31, 2022 and the amended risk factors disclosed below.

Our five largest tenants represented approximately 15.7% of our total commercial portfolio’s annualized rent as of March 31, 2023.

As of March 31, 2023, our five largest tenants together represented approximately 15.7% of our total commercial portfolio’s annualized rent, with our largest tenant leasing an aggregate of 0.5 million rentable square feet of office space at one of our office properties, representing approximately 5.2% of our total commercial portfolio rentable square feet and approximately 6.1% of our total commercial portfolio annualized rent. Our significant tenants have in the past, and may in the future, experience financial strain leading to lease default or bankruptcy filing. In such cases, we may not recover our upfront investments in tenant improvement allowances, concessions, and transaction costs like professional fees and commissions. Upon tenant default, we may experience delays and substantial costs in enforcing our rights and protecting our investment. For example, the recent receivership of Signature Bank, one of our significant tenants, poses such risks. See “Financial Statements - Note 8 Leases” for further disclosure on our assessment of Signature Bank. Our business, results of operations, cash flow and financial condition could be materially adversely affected if any of our significant tenants were to suffer a downturn in their business, become insolvent, default under their leases, and/or fail to renew on favorable terms or at all.

The bankruptcy or insolvency of any tenant could result in the termination of such tenant’s lease and material losses to us.

As we have experienced in the past with the bankruptcy of one of our largest tenants at the time, the occurrence of a tenant bankruptcy or insolvency could diminish or terminate the income we receive from that tenant. We may also be unable to re-lease a terminated or rejected space or to re-lease it on comparable or more favorable terms. For example, the recent receivership of Signature Bank, one of our significant tenants, poses such risks. See “Financial Statements - Note 8 Leases” for further disclosure on our assessment of Signature Bank. Further, the pandemic has increased the number of tenant bankruptcies, where federal law may prohibit us from timely eviction and/or authorize the tenant to terminate its lease(s), with statutory limitations on our recovery of rent due for the remaining lease term. Additionally, a large number of our tenants (measured by number of tenants as opposed to aggregate square footage) are smaller businesses that generally do not have the financial strength of larger corporate tenants. Smaller businesses generally experience a higher rate of failure than large businesses, and their insolvency could have a material adverse effect on our business, results of operations, cash flow and financial condition.

ITEM 2. UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS

Recent Sales of Unregistered Securities

None.

Recent Purchases of Equity Securities

<u>Stock and Publicly Traded Operating Partnership Unit Repurchase Program</u>

Our Board of Directors authorized the repurchase of up to $500 million of our Class A common stock and the Operating Partnership’s Series ES, Series 250 and Series 60 operating partnership units during the period from January 1, 2022 through December 31, 2023. Under the program, we may purchase our Class A common stock and the Operating Partnership’s Series ES, Series 250 and Series 60 operating partnership units in accordance with applicable securities laws from time to time in the open market or in privately negotiated transactions. The timing, manner, price and amount of any repurchases will be determined by us and will be subject to stock price, availability, trading volume, general market conditions, and applicable securities laws. The authorization does not obligate us to acquire any particular amount of securities, and the program may be suspended or discontinued at our discretion without prior notice. As of March 31, 2023, we had approximately $404.1 million remaining of the authorized repurchase amount.

The following table summarizes our repurchases of equity securities in each of the months in the three month period ended March 31, 2023 under the repurchase program described above:

Period	Total Number of Shares Purchased (1)	Weighted Average Price Paid per Share	Maximum Approximate Dollar Value Available for Future Purchase (in thousands)
January 2023	90,054	$ 6.70	$ 409,221
February 2023	—	$ —	$ 409,221
March 2023	843,333	$ 6.04	$ 404,130

(1) All shares were repurchased pursuant to our repurchase program described above.

ITEM 3. DEFAULTS UPON SENIOR SECURITIES

None.

ITEM 4. MINE SAFETY DISCLOSURES

Not Applicable.

ITEM 5. OTHER INFORMATION

None.

ITEM 6. EXHIBITS

Exhibit No.	Description
31.1*	Certification of Chief Executive Officer pursuant to Rule 13a-14(a)/15d-14(a) of the Securities Exchange Act of 1934, as amended, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
31.2*	Certification of Principal Financial Officer pursuant to Rule 13a-14(a)/15d-14(a) of the Securities Exchange Act of 1934, as amended, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
32.1*	Certification of Chief Executive Officer pursuant to 18 U.S.C. 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
32.2*	Certification of Principal Financial Officer pursuant to 18 U.S.C. 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
101.INS*	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*	XBRL Taxonomy Extension Schema Document
101.CAL*	XBRL Taxonomy Extension Calculation Document
101.DEF*	XBRL Taxonomy Extension Definitions Document
101.LAB*	XBRL Taxonomy Extension Labels Document
101.PRE*	XBRL Taxonomy Extension Presentation Document
104	Cover Page Interactive Data File (contained in Exhibit 101)
Notes:	

* Filed herewith.

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.

EMPIRE STATE REALTY TRUST, INC.

Date:	May 4, 2023	By:/s/ Christina Chiu Executive Vice President, Chief Operating Officer and Chief Financial Officer (Principal Financial Officer)
Date:	May 4, 2023	By: /s/ Stephen V. Horn Senior Vice President, Chief Accounting Officer (Principal Accounting Officer)

EXHIBIT 31.1

Certification of Chief Executive Officer pursuant to Rule 13a-14(a)/15d-14(a) of the Securities Exchange Act of 1934, as amended, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002

I, Anthony E. Malkin, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Empire State Realty Trust, Inc.;

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(s) 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(s) 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.

By: /s/ Anthony E. Malkin

Dated: May 4, 2023

Anthony E. Malkin Chairman, President and Chief Executive Officer

EXHIBIT 31.2

Certification of Chief Financial Officer pursuant to Rule 13a-14(a)/15d-14(a) of the Securities Exchange Act of 1934, as amended, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002

I, Christina Chiu, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Empire State Realty Trust, Inc.;
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(s) 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(s) 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: May 4, 2023

By: /s/ Christina Chiu

Christina Chiu Executive Vice President, Chief Operating Officer and Chief Financial Officer

EXHIBIT 32.1

CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER

PURSUANT TO

18 U.S.C. SECTION 1350

AS ADOPTED PURSUANT TO

SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

Pursuant to 18 U.S.C. Section 1350, adopted pursuant to Section 906 of The Sarbanes-Oxley Act of 2002, the undersigned Chief Executive Officer of Empire State Realty Trust, Inc. (the "Company"), hereby certifies, to his knowledge that the Quarterly Report on Form 10-Q for the period ended March 31, 2023 (the "Report"), as filed with the Securities and Exchange Commission on the date hereof, fully complies with the requirements of Section 13(a) or 15(d), as applicable, of the Securities Exchange Act of 1934, as amended, and that the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: May 4, 2023	By: /s/ Anthony E. Malkin Anthony E. Malkin Chairman, President and Chief Executive Officer

EXHIBIT 32.2

CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER

PURSUANT TO

18 U.S.C. SECTION 1350

AS ADOPTED PURSUANT TO

SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

Pursuant to 18 U.S.C. Section 1350, adopted pursuant to Section 906 of The Sarbanes-Oxley Act of 2002, the undersigned, Executive Vice President and Chief Financial Officer of Empire State Realty Trust, Inc. (the "Company"), hereby certifies, to her knowledge that the Quarterly Report on Form 10-Q for the period ended March 31, 2023 (the "Report"), as filed with the Securities and Exchange Commission on the date hereof, fully complies with the requirements of Section 13(a) or 15(d), as applicable, of the Securities Exchange Act of 1934, as amended, and that the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

	By: /s/ Christina Chiu
Date: May 4, 2023	Christina Chiu Executive Vice President, Chief Operating Officer and Chief Financial Officer