

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

FORM 10-Q

(Mark One)

☒ **Quarterly Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934**

For the quarterly period ended September 30, 2022.

or

☐ **Transition Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934**

For the transition period from _____ to _____

Commission File Number 1-12386

LXP INDUSTRIAL TRUST

(Exact name of registrant as specified in its charter)

Maryland

*(State or other jurisdiction of
incorporation of organization)*

13-3717318

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

One Penn Plaza, Suite 4015, New York, NY 10119-4015

(Address of principal executive offices) (zip code)

(212) 692-7200

(Registrant's telephone number, including area code)

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

<u>Title of each class</u>	<u>Trading Symbol(s)</u>	<u>Name of each exchange on which registered</u>
Shares of beneficial interest, par value \$0.0001 per share, classified as Common Stock	LXP	New York Stock Exchange
6.50% Series C Cumulative Convertible Preferred Stock, par value \$0.0001 per share	LXPPRC	New York Stock Exchange

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

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

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

Large accelerated filer ☒ 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 ☒

Indicate the number of shares outstanding of each of the registrant's classes of common stock, as of the latest practicable date: 275,723,255 common shares of beneficial interest, par value \$0.0001 per share, as of November 2, 2022.

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WHERE YOU CAN FIND MORE INFORMATION:

We file and furnish annual, quarterly and current reports, proxy statements and other information with the Securities and Exchange Commission, which we refer to as the SEC. You may read and copy any materials that we file or furnish with the SEC at the SEC's Public Reference Room at 100 F Street, N.E., Washington, D.C. 20549. You may obtain information on the operation of the Public Reference Room by calling the SEC at 1-800-SEC-0330. We file and furnish information electronically with the SEC. The SEC maintains an Internet site that contains reports, proxy and information statements and other information regarding issuers that file or furnish electronically with the SEC. The address of the SEC's Internet site is <http://www.sec.gov>. We also maintain a web site at <http://www.lxp.com> through which you can obtain copies of documents that we file or furnish with the SEC. The contents of that web site are not incorporated by reference in or otherwise a part of this Quarterly Report on Form 10-Q or any other document that we file or furnish with the SEC.

PART I. - FINANCIAL INFORMATION

ITEM 1. FINANCIAL STATEMENTS

LXP INDUSTRIAL TRUST AND CONSOLIDATED SUBSIDIARIES

CONDENSED CONSOLIDATED BALANCE SHEETS

(Unaudited and in thousands, except share and per share data)

	September 30, 2022	December 31, 2021
Assets:		
Real estate, at cost	\$ 3,642,114	\$ 3,583,978
Real estate - intangible assets	332,646	341,403
Land held for development	108,379	104,160
Investments in real estate under construction	368,483	161,165
Real estate, gross	4,451,622	4,190,706
Less: accumulated depreciation and amortization	747,535	655,740
Real estate, net	3,704,087	3,534,966
Assets held for sale	73,761	82,586
Right-of-use assets, net	24,994	27,966
Cash and cash equivalents	29,407	190,926
Restricted cash	113	101
Investments in non-consolidated entities	55,415	74,559
Deferred expenses, net	25,564	18,861
Rent receivable – current	2,426	3,526
Rent receivable – deferred	69,419	63,283
Other assets	26,062	8,784
Total assets	\$ 4,011,248	\$ 4,005,558
Liabilities and Equity:		
Liabilities:		
Mortgages and notes payable, net	\$ 74,891	\$ 83,092
Revolving credit facility borrowings	130,000	—
Term loan payable, net	298,834	298,446
Senior notes payable, net	988,954	987,931
Trust preferred securities, net	127,669	127,595
Dividends payable	34,778	37,425
Liabilities held for sale	2,815	3,468
Operating lease liabilities	26,062	29,094
Accounts payable and other liabilities	88,028	77,607
Accrued interest payable	10,278	8,481
Deferred revenue - including below-market leases, net	11,734	14,474
Prepaid rent	14,693	14,717
Total liabilities	1,808,736	1,682,330
Commitments and contingencies		
Equity:		
Preferred shares, par value \$0.0001 per share; authorized 100,000,000 shares:		
Series C Cumulative Convertible Preferred, liquidation preference \$96,770; 1,935,400 shares issued and outstanding	94,016	94,016
Common shares, par value \$0.0001 per share; authorized 600,000,000 shares, 276,100,331 and 283,752,726 shares issued and outstanding in 2022 and 2021, respectively	28	28
Additional paid-in-capital	3,134,739	3,252,506
Accumulated distributions in excess of net income	(1,079,407)	(1,049,434)
Accumulated other comprehensive income (loss)	17,768	(6,258)
Total shareholders' equity	2,167,144	2,290,858
Noncontrolling interests	35,368	32,370
Total equity	2,202,512	2,323,228
Total liabilities and equity	\$ 4,011,248	\$ 4,005,558

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

LXP INDUSTRIAL TRUST AND CONSOLIDATED SUBSIDIARIES
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS
(Unaudited and in thousands, except share and per share data)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2022	2021	2022	2021
Gross revenues:				
Rental revenue	\$ 78,274	\$ 82,353	\$ 234,749	\$ 254,570
Other revenue	1,814	1,064	5,392	2,945
Total gross revenues	80,088	83,417	240,141	257,515
Expense applicable to revenues:				
Depreciation and amortization	(44,946)	(45,359)	(134,645)	(130,579)
Property operating	(13,961)	(11,406)	(42,279)	(33,966)
General and administrative	(9,060)	(8,363)	(29,093)	(24,695)
Non-operating income	242	472	353	953
Interest and amortization expense	(11,255)	(12,210)	(32,758)	(35,170)
Debt satisfaction losses, net	(119)	(13,222)	(119)	(13,222)
Impairment charges	(628)	(2,048)	(2,457)	(2,048)
Gains on sales of properties	24,841	16,122	52,951	104,767
Selling profit from sales-type lease	—	—	9,314	—
Income before provision for income taxes and equity in earnings (losses) of non-consolidated entities	25,202	7,403	61,408	123,555
Provision for income taxes	(271)	(270)	(951)	(986)
Equity in earnings (losses) of non-consolidated entities	(1,340)	(75)	15,580	(249)
Net income	23,591	7,058	76,037	122,320
Less net income attributable to noncontrolling interests	(201)	(420)	(727)	(1,962)
Net income attributable to LXP Industrial Trust shareholders	23,390	6,638	75,310	120,358
Dividends attributable to preferred shares – Series C	(1,573)	(1,573)	(4,718)	(4,718)
Allocation to participating securities	(41)	(37)	(151)	(170)
Net income attributable to common shareholders	\$ 21,776	\$ 5,028	\$ 70,441	\$ 115,470
Net income attributable to common shareholders - per common share basic	\$ 0.08	\$ 0.02	\$ 0.25	\$ 0.42
Weighted-average common shares outstanding – basic	277,535,717	278,124,204	281,559,058	276,379,718
Net income attributable to common shareholders - per common share diluted	\$ 0.08	\$ 0.02	\$ 0.25	\$ 0.41
Weighted-average common shares outstanding – diluted	278,521,946	282,048,458	284,609,950	278,581,849

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

LXP INDUSTRIAL TRUST AND CONSOLIDATED SUBSIDIARIES
CONDENSED CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME (LOSS)
(Unaudited and in thousands)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2022	2021	2022	2021
Net income	\$ 23,591	\$ 7,058	\$ 76,037	\$ 122,320
Other comprehensive income:				
Change in unrealized income on interest rate swaps, net	7,028	1,150	22,844	7,072
Company's share of other comprehensive income of non-consolidated entities	1,182	—	1,182	—
Other comprehensive income	8,210	1,150	24,026	7,072
Comprehensive income	31,801	8,208	100,063	129,392
Comprehensive income attributable to noncontrolling interests	(201)	(420)	(727)	(1,962)
Comprehensive income attributable to LXP Industrial Trust shareholders	\$ 31,600	\$ 7,788	\$ 99,336	\$ 127,430

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

LXP INDUSTRIAL TRUST AND CONSOLIDATED SUBSIDIARIES
CONDENSED CONSOLIDATED STATEMENTS OF CHANGES IN EQUITY
(Unaudited and in thousands, except share and per share data)

Three Months Ended September 30, 2022

LXP Industrial Trust Shareholders										
	Total	Number of Preferred Shares	Preferred Shares	Number of Common Shares	Common Shares	Additional Paid-in-Capital	Accumulated Distributions in Excess of Net Income	Accumulated Other Comprehensive Income/(Loss)	Noncontrolling Interests	
Balance June 30, 2022	\$ 2,259,650	1,935,400	\$ 94,016	281,670,437	\$ 28	\$ 3,189,713	\$ (1,068,408)	\$ 9,558	\$ 34,743	
Issuance of partnership interest in real estate	663	—	—	—	—	—	—	—	663	
Redemption of noncontrolling OP units for common shares	—	—	—	13,146	—	68	—	—	(68)	
Issuance of common shares and deferred compensation amortization, net	1,916	—	—	22,516	—	1,916	—	—	—	
Repurchase of common shares	(56,958)	—	—	(5,604,048)	—	(56,958)	—	—	—	
Forfeiture of employee common shares	1	—	—	(1,720)	—	—	1	—	—	
Dividends/distributions (\$0.12 per common share)	(34,561)	—	—	—	—	—	(34,390)	—	(171)	
Net income	23,591	—	—	—	—	—	23,390	—	201	
Other comprehensive income	7,028	—	—	—	—	—	—	7,028	—	
Company's share of other comprehensive income of non-consolidated entities	1,182	—	—	—	—	—	—	1,182	—	
Balance September 30, 2022	\$ 2,202,512	1,935,400	\$ 94,016	276,100,331	\$ 28	\$ 3,134,739	\$ (1,079,407)	\$ 17,768	\$ 35,368	

Three Months Ended September 30, 2021

Balance June 30, 2021	\$ 2,051,369	1,935,400	\$ 94,016	277,660,102	\$ 28	\$ 3,195,040	\$ (1,250,735)	\$ (12,041)	\$ 25,061	
Issuance of partnership interest in real estate	5,965	—	—	—	—	—	—	—	5,965	
Redemption of noncontrolling OP units for common shares	—	—	—	38,790	—	202	—	—	(202)	
Redemption of noncontrolling OP units for real estate	(22,305)	—	—	—	—	(12,919)	—	—	(9,386)	
Issuance of common shares and deferred compensation amortization, net	57,527	—	—	4,939,815	—	57,527	—	—	—	
Dividends/distributions (\$0.1075 per common share)	(32,402)	—	—	—	—	—	(32,037)	—	(365)	
Net income	7,058	—	—	—	—	—	6,638	—	420	
Other comprehensive income	1,150	—	—	—	—	—	—	1,150	—	
Balance September 30, 2021	\$ 2,068,362	1,935,400	\$ 94,016	282,638,707	\$ 28	\$ 3,239,850	\$ (1,276,134)	\$ (10,891)	\$ 21,493	

LXP INDUSTRIAL TRUST AND CONSOLIDATED SUBSIDIARIES
CONDENSED CONSOLIDATED STATEMENTS OF CHANGES IN EQUITY
(Unaudited and in thousands, except share and per share data)

Nine Months Ended September 30, 2022

LXP Industrial Trust Shareholders										
	Total	Number of Preferred Shares	Preferred Shares	Number of Common Shares	Common Shares	Additional Paid-in-Capital	Accumulated Distributions in Excess of Net Income	Accumulated Other Comprehensive Income/(Loss)	Noncontrolling Interests	
Balance December 31, 2021	\$ 2,323,228	1,935,400	\$ 94,016	283,752,726	\$ 28	\$ 3,252,506	\$ (1,049,434)	(6,258)	32,370	
Issuance of partnership interest in real estate	6,444	—	—	—	—	—	—	—	6,444	
Redemption of noncontrolling OP units for common shares	—	—	—	33,378	—	177	—	—	(177)	
Purchase of noncontrolling interest in consolidated joint venture	(27,958)	—	—	—	—	(25,058)	—	—	(2,900)	
Issuance of common shares and deferred compensation amortization, net	44,075	—	—	4,557,892	1	44,074	—	—	—	
Repurchase of common shares	(130,676)	—	—	(11,702,074)	(1)	(130,675)	—	—	—	
Repurchase of common shares to settle tax obligations	(6,285)	—	—	(410,958)	—	(6,285)	—	—	—	
Forfeiture of employee common shares	9	—	—	(130,633)	—	—	9	—	—	
Dividends/distributions (\$0.36 per common share)	(106,388)	—	—	—	—	—	(105,292)	—	(1,096)	
Net income	76,037	—	—	—	—	—	75,310	—	727	
Other comprehensive income	22,844	—	—	—	—	—	—	22,844	—	
Company's share of other comprehensive income of non-consolidated entities	1,182	—	—	—	—	—	—	1,182	—	
Balance September 30, 2022	\$ 2,202,512	1,935,400	\$ 94,016	276,100,331	\$ 28	\$ 3,134,739	\$ (1,079,407)	\$ 17,768	\$ 35,368	

Nine Months Ended September 30, 2021

Balance December 31, 2020	\$	1,991,137	1,935,400	\$	94,016	277,152,450	\$	28	\$	3,196,315	\$	(1,301,726)	\$	(17,963)	\$	20,467
Issuance of partnership interest in real estate		11,050	—		—	—		—		—		—		—		11,050
Redemption of noncontrolling OP units for common shares		—	—		—	129,397		—		670		—		—		(670)
Redemption of noncontrolling OP units for real estate		(22,305)	—		—	—		—		(12,919)		—		—		(9,386)
Issuance of common shares and deferred compensation amortization, net		60,469	—		—	5,866,762		—		60,469		—		—		—
Repurchase of common shares to settle tax obligations		(5,120)	—		—	(499,638)		—		(5,120)		—		—		—
Forfeiture of employee common shares		2	—		—	(10,264)		—		—		2		—		—
Dividends/distributions (\$0.3225 per common share)		(96,263)	—		—	—		—		—		(94,768)		—		(1,495)
Net income		122,320	—		—	—		—		—		120,358		—		1,962
Other comprehensive income		7,072	—		—	—		—		—		—		7,072		—
Reallocation of noncontrolling interests		—	—		—	—		—		435		—		—		(435)
Balance September 30, 2021	\$	<u>2,068,362</u>	<u>1,935,400</u>	\$	<u>94,016</u>	<u>282,638,707</u>	\$	<u>28</u>	\$	<u>3,239,850</u>	\$	<u>(1,276,134)</u>	\$	<u>(10,891)</u>	\$	<u>21,493</u>

LXP INDUSTRIAL TRUST AND CONSOLIDATED SUBSIDIARIES
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(Unaudited and in thousands)

	Nine Months Ended September 30,	
	2022	2021
Net cash provided by operating activities:	\$ 154,113	\$ 167,405
Cash flows from investing activities:		
Acquisition of real estate, including intangible assets	(132,026)	(392,586)
Investment in real estate under construction	(209,862)	(119,885)
Capital expenditures	(25,593)	(9,371)
Net proceeds from sale of properties	145,906	181,242
Investments in loans receivable	—	(1,497)
Principal payments on loans receivable	20	—
Investments in non-consolidated entities	(307)	(975)
Distributions from non-consolidated entities in excess of accumulated earnings	19,250	6,170
Deferred leasing costs	(4,017)	(5,546)
Change in real estate deposits, net	(1,524)	(1,658)
Net cash used in investing activities	(208,153)	(344,106)
Cash flows from financing activities:		
Dividends to common and preferred shareholders	(107,939)	(95,885)
Proceeds from mortgage loans	—	11,610
Principal amortization payments	(8,416)	(10,571)
Principal payments on debt, excluding normal amortization	—	(10,567)
Revolving credit facility borrowings	210,000	215,000
Revolving credit facility payments	(80,000)	(215,000)
Proceeds from issuance of senior notes	—	399,032
Repurchase of senior notes	—	(188,756)
Deferred financing costs	(3,626)	(3,977)
Payments for early extinguishment of debt	—	(12,217)
Cash contributions from noncontrolling interests	6,444	10,560
Cash distributions to noncontrolling interests	(1,096)	(1,495)
Repurchases to settle tax obligations	(6,285)	(5,120)
Purchase of noncontrolling interest	(27,958)	—
Issuance of common shares, net	38,436	55,116
Repurchase of common shares	(127,027)	—
Net cash (used in) provided by financing activities	(107,467)	147,730
Change in cash, cash equivalents and restricted cash	(161,507)	(28,971)
Cash, cash equivalents and restricted cash, at beginning of period	191,027	179,421
Cash, cash equivalents and restricted cash, at end of period	\$ 29,520	\$ 150,450
Reconciliation of cash, cash equivalents and restricted cash:		
Cash and cash equivalents at beginning of period	\$ 190,926	\$ 178,795
Restricted cash at beginning of period	101	626
Cash, cash equivalents and restricted cash at beginning of period	\$ 191,027	\$ 179,421
Cash and cash equivalents at end of period	\$ 29,407	\$ 150,077
Restricted cash at end of period	113	373
Cash, cash equivalents and restricted cash at end of period	\$ 29,520	\$ 150,450

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

LXP INDUSTRIAL TRUST AND CONSOLIDATED SUBSIDIARIES
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

September 30, 2022 and 2021

(Unaudited and dollars in thousands, except share/unit and per share/unit data)

(1) The Company and Financial Statement Presentation

LXP Industrial Trust (together with its consolidated subsidiaries, except when the context only applies to the parent entity, the “Company”) is a Maryland real estate investment trust (“REIT”) that owns a portfolio of equity investments focused on single-tenant industrial properties.

As of September 30, 2022, the Company had ownership interests in approximately 118 consolidated real estate properties, located in 21 states. The properties in which the Company has an interest are primarily net leased to tenants in various industries.

The Company believes it has qualified as a REIT under the Internal Revenue Code of 1986, as amended (the “Code”). Accordingly, the Company will not be subject to federal income tax, provided that distributions to its shareholders equal at least the amount of its REIT taxable income as defined under the Code. The Company is permitted to participate in certain activities from which it was previously precluded in order to maintain its qualification as a REIT, so long as these activities are conducted in entities which elect to be treated as taxable REIT subsidiaries (“TRS”) under the Code. As such, the TRS are subject to federal income taxes on the income from these activities.

The Company conducts its operations indirectly through (1) property owner subsidiaries, which are single purpose entities, (2) a wholly-owned TRS, Lexington Realty Advisors, Inc. (“LRA”), and (3) joint ventures. Property owner subsidiaries are landlords under leases for properties in which the Company has an interest and/or borrowers under loan agreements secured by properties in which the Company has an interest and lender subsidiaries are lenders under loan agreements where the Company made an investment in a loan asset, but in all cases are separate and distinct legal entities. Each property owner subsidiary is a separate legal entity that maintains separate books and records. The assets and credit of each property owner subsidiary with a property subject to a mortgage loan are not available to creditors to satisfy the debt and other obligations of any other person, including any other property owner subsidiary or any other affiliate. Consolidated entities that are not property owner subsidiaries do not directly own any of the assets of a property owner subsidiary (or the general partner, member or managing member of such property owner subsidiary), but merely hold partnership, membership or beneficial interests therein, which interests are subordinate to the claims of such property owner subsidiary's (or its general partner's, member's or managing member's) creditors.

The financial statements contained in this Quarterly Report on Form 10-Q (this “Quarterly Report”) for the three and nine months ended September 30, 2022 have been prepared by the Company in accordance with U.S. generally accepted accounting principles (“GAAP”) for interim financial information and the applicable rules and regulations of the Securities and Exchange Commission (“SEC”). Accordingly, they do not include all information and footnotes required by GAAP for complete financial statements. However, in the opinion of management, the interim financial statements include all adjustments, consisting of normal recurring adjustments, necessary for a fair presentation of the results of the periods presented. Interim results are not necessarily indicative of the results that may be expected for the full year. These unaudited condensed consolidated financial statements should be read in conjunction with the Company's audited consolidated financial statements and notes thereto included in the Company's Annual Report on Form 10-K for the year ended December 31, 2021 filed with the SEC on February 24, 2022 (“Annual Report”).

Basis of Presentation and Consolidation. The Company's unaudited condensed consolidated financial statements are prepared on the accrual basis of accounting in accordance with GAAP. The financial statements reflect the accounts of the Company and its consolidated subsidiaries. The Company consolidates the wholly-owned subsidiaries, partnerships and joint ventures which it controls (i) through voting rights or similar rights or (ii) by means other than voting rights if the Company is the primary beneficiary of a variable interest entity (“VIE”). Entities which the Company does not control and entities which are VIEs in which the Company is not a primary beneficiary are accounted for under appropriate GAAP.

LXP INDUSTRIAL TRUST AND CONSOLIDATED SUBSIDIARIES
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

September 30, 2022 and 2021

(Unaudited and dollars in thousands, except share/unit and per share/unit data)

As of September 30, 2022, the Company had interests in seven consolidated joint ventures with developers, consisting of five ongoing development projects and two land joint ventures with ownership interests ranging from 80% to 95.5%. Each joint venture owns land parcels with the intention of developing industrial properties. The Company determined that the joint ventures are variable interest entities in accordance with the applicable accounting guidance. The Company concluded that it is the primary beneficiary in each of the joint ventures and as such, the joint ventures' operations are consolidated in the Company's financial statements.

In addition, the Company is the primary beneficiary of certain other VIEs as it has a controlling financial interest in these entities. Lepercq Corporate Income Fund L.P. ("LCIF") is a consolidated VIE and the Company, as of September 30, 2022, had an approximate 99% ownership interest.

The assets of each VIE are only available to satisfy such VIE's respective liabilities. Below is a summary of selected financial data of the consolidated VIEs for which the Company is the primary beneficiary included in the unaudited condensed consolidated balance sheets as of September 30, 2022 and December 31, 2021:

	September 30, 2022	December 31, 2021
Real estate, net	\$ 985,808	\$ 810,087
Total assets	\$ 1,038,913	\$ 952,611
Total liabilities	\$ 58,796	\$ 47,011

In addition, the Company acquires, from time to time, properties using a reverse like-kind exchange structure pursuant to Section 1031 of the Internal Revenue Code (a "reverse 1031 exchange") and, as such, the properties are in the possession of an Exchange Accommodation Titleholder ("EAT") until the reverse 1031 exchange is completed. The EAT is classified as a VIE as it is a "thinly capitalized" entity. The Company consolidates the EAT because it is the primary beneficiary as it has the ability to control the activities that most significantly impact the EAT's economic performance and can collapse the 1031 exchange structure at any time. The assets of the EAT primarily consist of leased property (net real estate and intangibles).

Revenue Recognition. The Company recognizes lease revenue on a straight-line basis over the term of the lease unless another systematic and rational basis is more representative of the time pattern in which the use benefit is derived from the leased property. Revenue is recognized on a contractual basis for leases with escalations tied to a consumer price index with no floor. The Company evaluates the collectability of its rental payments and recognizes revenue on a cash basis when the Company believes it is no longer probable that it will receive substantially all of the remaining lease payments. Renewal options in leases are excluded from the calculation of straight-line rent if the renewals are not reasonably certain. If the Company funds tenant improvements and the improvements are deemed to be owned by the Company, revenue recognition will commence when the improvements are substantially completed and possession or control of the space is turned over to the tenant. If the Company determines that the tenant allowances are lease incentives, the Company commences revenue recognition when possession or control of the space is turned over to the tenant for tenant work to begin. The lease incentive is recorded as a deferred expense and amortized as a reduction of revenue on a straight-line basis over the respective lease term. The Company recognizes lease termination fees as rental revenue in the period received and writes off unamortized lease-related intangible and other lease-related account balances, provided there are no further Company obligations under the lease. Otherwise, such fees and balances are recognized on a straight-line basis over the remaining obligation period with the termination payments being recorded as a component of rent receivable-deferred on the unaudited condensed consolidated balance sheets.

Use of Estimates. Management has made a number of significant estimates and assumptions relating to the reporting of assets and liabilities, the disclosure of contingent assets and liabilities and the reported amounts of revenues and expenses to prepare these unaudited condensed consolidated financial statements in conformity with GAAP. These estimates and assumptions are based on management's best estimates and judgment. Management evaluates its estimates and assumptions on an ongoing basis using historical experience and other factors, including the current economic environment. Management adjusts such estimates when facts and circumstances dictate. The most significant estimates made include the recoverability of current and deferred accounts receivable and, allocation of property purchase price to tangible and intangible assets acquired and liabilities assumed, the determination of VIEs

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and which entities should be consolidated, the determination of impairment of long-lived assets and equity method investments, valuation of derivative financial instruments, valuation of awards granted under compensation plans, the determination of the incremental borrowing rate for leases where the Company is the lessee and the useful lives of long-lived assets. Actual results could differ materially from those estimates.

Restricted Cash. Restricted cash is comprised primarily of cash balances held by lenders.

Fair Value Measurements. The Company follows the guidance in the Financial Accounting Standards Board ("FASB") Accounting Standards Codification ("ASC") Topic 820, Fair Value Measurements and Disclosures ("Topic 820"), to determine the fair value of financial and non-financial instruments. Topic 820 defines fair value, establishes a framework for measuring fair value in GAAP and expands disclosures about fair value measurements. Topic 820 establishes a fair value hierarchy that prioritizes observable and unobservable inputs used to measure fair value into three levels: Level 1 - quoted prices (unadjusted) in active markets that are accessible at the measurement date for assets or liabilities; Level 2 - observable prices that are based on inputs not quoted in active markets, but corroborated by market data; and Level 3 - unobservable inputs, which are used when little or no market data is available. The fair value hierarchy gives the highest priority to Level 1 inputs and the lowest priority to Level 3 inputs. In determining fair value, the Company utilizes valuation techniques that maximize the use of observable inputs and minimize the use of unobservable inputs to the extent possible, as well as considering counterparty credit risk. The Company has formally elected to apply the portfolio exception within Topic 820 with respect to measuring counterparty risk for all of its derivative transactions subject to master netting arrangements.

The Company estimates the fair value of its real estate assets, including non-consolidated real estate assets, by using income and market valuation techniques. The Company may estimate fair values using market information such as recent sale contracts (Level 2 inputs) or recent sale offers or discounted cash flow models, which primarily rely on Level 3 inputs. The cash flow models include estimated cash inflows and outflows over a specified holding period. These cash flows may include contractual rental revenues, projected future rental revenues and expenses and forecasted tenant improvements and lease commissions based upon market conditions determined through discussion with local real estate professionals, experience the Company has with its other owned properties in such markets and expectations for growth. Capitalization rates and discount rates utilized in these models are estimated by management based upon rates that management believes to be within a reasonable range of current market rates for the respective properties based upon an analysis of factors such as property and tenant quality, geographical location and local supply and demand observations. To the extent the Company under-estimates forecasted cash out flows (tenant improvements, lease commissions and operating costs) or over-estimates forecasted cash inflows (rental revenue rates), the estimated fair value of its real estate assets could be overstated.

Cost Capitalization. The Company capitalizes interest and direct and indirect project costs associated with the initial construction of a property up to the time the property is substantially complete and ready for its intended use within investments in real estate under construction in the unaudited condensed consolidated balance sheets. If costs and activities incurred to ready the vacant space cease, then cost capitalization is also discontinued until such activities are resumed. Once construction has been completed on a vacant space, project costs are no longer capitalized.

Recently Issued Accounting Guidance. In March 2020, the FASB issued ASU 2020-04, Reference Rate Reform (Topic 848). ASU 2020-04 contains practical expedients for reference rate reform related activities that impact debt, leases, derivatives and other contracts that reference the London Interbank Offered Rate, or LIBOR, or another reference rate expected to be discontinued because of reference rate reform. The guidance in ASU 2020-04 is optional, applies for a limited period of time to ease the potential burden in accounting for (or recognizing the effect of) reference rate reform on financial reporting, in response to concerns about structural risks of interbank offered rates, and, particularly, the risk of cessation of LIBOR and may be elected over time as reference rate reform activities occur. As of March 31, 2020, the Company has elected to apply the hedge accounting expedients related to probability and the assessments of effectiveness for future LIBOR-indexed cash flows to assume that the index upon which future hedged transactions will be based matches the index on the corresponding derivatives. Application of these expedients preserves the presentation of derivatives consistent with past presentation.

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On July 5, 2022, the Company transitioned its benchmark interest rate for its term loan from LIBOR to the Secured Overnight Financing Rate, or SOFR. The Company adopted ASU 2020-04 and the adoption of this standard did not have an impact on the Company's unaudited condensed consolidated financial statements.

(2) Earnings Per Share

A portion of the Company's non-vested share-based payment awards are considered participating securities and as such, the Company is required to use the two-class method for the computation of basic and diluted earnings per share. Under the two-class computation method, net losses are not allocated to participating securities unless the holder of the security has a contractual obligation to share in the losses. The non-vested share-based payment awards are not allocated losses as the awards do not have a contractual obligation to share in losses of the Company.

The following is a reconciliation of the numerators and denominators of the basic and diluted earnings per share computations for the three and nine months ended September 30, 2022 and 2021:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2022	2021	2022	2021
BASIC				
Net income attributable to common shareholders	\$ 21,776	\$ 5,028	\$ 70,441	\$ 115,470
Weighted-average number of common shares outstanding - basic	277,535,717	278,124,204	281,559,058	276,379,718
Net income attributable to common shareholders - per common share basic	\$ 0.08	\$ 0.02	\$ 0.25	\$ 0.42
DILUTED				
Net income attributable to common shareholders - basic	\$ 21,776	\$ 5,028	\$ 70,441	\$ 115,470
Impact of assumed conversions	11	—	147	—
Net income attributable to common shareholders	\$ 21,787	\$ 5,028	\$ 70,588	\$ 115,470
Weighted-average common shares outstanding - basic	277,535,717	278,124,204	281,559,058	276,379,718
Effect of dilutive securities:				
Shares issuable under forward sales agreements	—	2,765,030	1,699,789	1,290,968
Unvested share-based payment awards	139,371	1,159,224	491,877	911,163
Operating partnership units	846,858	—	859,226	—
Weighted-average common shares outstanding - diluted	278,521,946	282,048,458	284,609,950	278,581,849
Net income attributable to common shareholders - per common share diluted	\$ 0.08	\$ 0.02	\$ 0.25	\$ 0.41

For per common share amounts, all incremental shares are considered anti-dilutive for periods that have a loss from continuing operations attributable to common shareholders. In addition, other common share equivalents may be anti-dilutive in certain periods.

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(3) **Investments in Real Estate**

The Company acquired the following warehouse/distribution facilities during the nine months ended September 30, 2022⁽¹⁾:

Market	Acquisition Date	Initial Cost Basis	Primary Lease Expiration at Acquisition Date	Land	Building and Improvements	Lease in-place Intangible
Cincinnati/Dayton, OH ⁽²⁾	February 2022	\$ 23,382	N/A	\$ 2,010	\$ 21,372	\$ —
Cincinnati/Dayton, OH	February 2022	48,660	04/2032	4,197	40,944	3,519
Phoenix, AZ	April 2022	59,140	05/2037	5,366	50,281	3,493
		<u>\$ 131,182</u>		<u>\$ 11,573</u>	<u>\$ 112,597</u>	<u>\$ 7,012</u>

(1) A land parcel located in Hebron, OH was also purchased for \$747.

(2) Subsequent to acquisition, property was fully leased for approximately nine years.

In 2022, the Company purchased the remaining 13% of equity owned by a noncontrolling interest in the Fairburn, Georgia warehouse/distribution facility for \$27,958. As the Company previously consolidated its interest in the joint venture which owned the property, the acquisition of the noncontrolling ownership interest was recorded as an equity transaction with the difference between the purchase price and carrying balance of \$25,058 recorded as a reduction in additional paid-in-capital.

As of September 30, 2022, the details of the warehouse/distribution real estate under construction are as follows (in \$000's, except square feet):

Project (% owned)	# of Buildings	Market	Estimated Sq. Ft.	Estimated Project Cost ⁽¹⁾	GAAP Investment Balance as of 9/30/2022	LXP Amount Funded as of 9/30/2022 ⁽²⁾	Estimated Building Completion Date	% Leased as of 9/30/2022
The Cubes at Etna East (95%) ⁽³⁾	1	Columbus, OH	1,074,840	\$ 72,100	\$ 59,713	\$ 53,095	3Q 2022	— %
Ocala (80%)	1	Central Florida	1,085,280	83,100	66,556	54,866	4Q 2022	— %
Mt. Comfort (80%)	1	Indianapolis, IN	1,053,360	65,500	48,354	38,278	4Q 2022	— %
Smith Farms (90%) ⁽⁴⁾	3	Greenville-Spartanburg, SC	2,194,820	170,400	123,582	97,906	4Q 2022 - 2Q 2023	36 %
Cotton 303 (93%) ⁽⁵⁾	2	Phoenix, AZ	880,678	84,200	56,554	49,000	1Q 2023	45 %
South Shore (100%)	2	Central Florida	270,885	40,500	13,724	10,435	2Q 2023	— %
				<u>\$ 515,800</u>	<u>\$ 368,483</u>	<u>\$ 303,580</u>		

(1) Estimated project cost includes estimated tenant improvements and leasing costs and excludes potential developer partner promote, if any.

(2) Excludes noncontrolling interests' share.

(3) Base building achieved substantial completion on September 30, 2022. Property not in service as of September 30, 2022.

(4) Pre-leased 797,936 square foot facility subject to a 12-year lease commencing upon substantial completion of the facility.

(5) Pre-leased 392,278 square foot facility subject to a 10-year lease commencing upon substantial completion of the facility.

As of September 30, 2022, the Company's aggregate investment in the development arrangements was \$368,483, which included capitalized interest of \$4,888 for the nine months ended September 30, 2022 and is presented as investments in real estate under construction in the accompanying unaudited condensed consolidated balance sheet. For the nine months ended September 30, 2021, capitalized interest for development arrangements was \$1,806.

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As of September 30, 2022, the details of the land held for development are as follows (in \$000's, except acres):

Project (% owned)	Market	Approx. Developable Acres	GAAP Investment Balance as of 9/30/2022	LXP Amount Funded as of 9/30/2022 ⁽¹⁾
Consolidated:				
Reems & Olive (95.5%)	Phoenix, AZ	420	\$ 101,412	\$ 96,961
Mt. Comfort Phase II (80%)	Indianapolis, IN	116	5,236	4,165
ATL Fairburn JV (100%)	Atlanta, GA	14	\$ 1,731	\$ 1,728
		<u>550</u>	<u>\$ 108,379</u>	<u>\$ 102,854</u>

(1) Excludes noncontrolling interests' share.

(4) Dispositions and Impairment

During the nine months ended September 30, 2022 and 2021, the Company disposed of its interests in various properties for an aggregate gross disposition price of \$147,345 and \$218,796, respectively, and recognized aggregate gains on sales of properties of \$52,951 and \$104,767, respectively.

Included in the 2021 dispositions are three non-industrial properties with an aggregate disposition price of \$35,369, which was satisfied through (i) the redemption of 1,598,906 operating partnership units ("OP units"), (ii) the assumption of \$11,610 of third party mortgage financing that encumbered two of the properties and (iii) \$1,497 of seller financing. The seller financing note receivable has a fixed interest rate of 6.0% per annum and matures on August 1, 2025. There are no past due payments outstanding related to the seller financing as of September 30, 2022 and 2021.

The Company had six and eight properties classified as held for sale at September 30, 2022 and December 31, 2021, respectively. Assets and liabilities of the held for sale properties consisted of the following:

	September 30, 2022	December 31, 2021
Assets:		
Real estate, at cost	\$ 159,963	\$ 170,117
Real estate, intangible assets	8,572	9,454
Accumulated depreciation and amortization	(97,251)	(99,659)
Deferred expenses, net	1,629	1,759
Other	848	915
	<u>\$ 73,761</u>	<u>\$ 82,586</u>
Liabilities:		
Accounts payable and liabilities	\$ 1,630	\$ 1,908
Deferred revenue	362	483
Prepaid rent	823	1,077
	<u>\$ 2,815</u>	<u>\$ 3,468</u>

The Company assesses on a regular basis whether there are any indicators that the carrying value of its real estate assets may be impaired. Potential indicators may include an increase in vacancy at a property, tenant financial instability, change in the estimated holding period of the asset, the potential sale or transfer of the property in the near future and changes in economic conditions. An asset is determined to be impaired if the asset's carrying value is in excess of its estimated fair value and the Company estimates that its cost will not be recovered. During the nine months ended September 30, 2022, the Company recognized an impairment charge on real estate of \$2,457 due to vacancy at the property. During the nine months ended September 30, 2021, the Company recognized impairment charges on real estate of \$2,048 related to a vacant office property.

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(5) **Fair Value Measurements**

The following tables present the Company's assets and liabilities measured at fair value on a recurring and non-recurring basis as of September 30, 2022 and December 31, 2021, aggregated by the level in the fair value hierarchy within which those measurements fall:

Description	Balance		Fair Value Measurements Using		
	September 30, 2022	(Level 1)	(Level 2)	(Level 3)	
Interest rate swap assets	\$ 16,586	\$ —	\$ 16,586	\$ —	
Impaired real estate assets ⁽¹⁾	\$ 1,056	\$ —	\$ 1,056	\$ —	

Description	Balance		Fair Value Measurements Using		
	December 31, 2021	(Level 1)	(Level 2)	(Level 3)	
Interest rate swap liabilities	\$ (6,258)	\$ —	\$ (6,258)	\$ —	
Impaired real estate assets ⁽²⁾	\$ 12,735	\$ —	\$ —	\$ 12,735	

- (1) Represents non-recurring fair value measurement. The fair value is calculated as of the impairment date. \$1,056 was based on an observable contract and the Company determined that the fair value of the property falls within Level 2 of the fair value reporting hierarchy.
- (2) Represents non-recurring fair value measurement. The Company measured a \$12,735 fair value of real estate assets based on a discounted cash flow analysis using a discount rate ranging from 8.0% to 10.0% and a residual capitalization rate ranging from 7.5% to 8.0%. As significant inputs to the models are unobservable, the Company determined that the value determined for these properties falls within Level 3 of the fair value reporting hierarchy.

The majority of the inputs used to value the Company's interest rate swaps fell within Level 2 of the fair value hierarchy, such as observable market interest rate curves; however, the credit valuation associated with the interest rate swaps utilized Level 3 inputs, such as estimates of current credit spreads to evaluate the likelihood of default by the Company and its counterparties. As of September 30, 2022 and December 31, 2021, the Company determined that the credit valuation adjustment relative to the overall fair value of the interest rate swaps was not significant. As a result, the interest rate swaps were classified in Level 2 of the fair value hierarchy.

The table below sets forth the carrying amounts and estimated fair values of the Company's financial instruments, excluding held for sale assets, as of September 30, 2022 and December 31, 2021:

	As of September 30, 2022		As of December 31, 2021	
	Carrying Amount	Fair Value	Carrying Amount	Fair Value
Liabilities				
Debt	\$ 1,620,348	\$ 1,399,498	\$ 1,497,064	\$ 1,491,868

The fair value of the Company's debt is primarily estimated utilizing Level 3 inputs by using a discounted cash flow analysis, based upon estimates of market interest rates, except for the Company's senior notes payable. The Company determines the fair value of its senior notes payable using market prices. The inputs used in determining the fair value of these notes are categorized as Level 1 due to the fact that the Company uses quoted market rates to value these instruments. However, the inputs used in determining the fair value could be categorized as Level 2 if trading volumes are low.

Fair values cannot be determined with precision, may not be substantiated by comparison to quoted prices in active markets and may not be realized upon sale. Additionally, there are inherent uncertainties in any fair value measurement technique, and changes in the underlying assumptions used, including discount rates, liquidity risks and estimates of future cash flows, could significantly affect the fair value measurement amounts.

Cash Equivalents, Restricted Cash, Accounts Receivable and Accounts Payable. The Company estimates that the fair value of cash equivalents, restricted cash, accounts receivable and accounts payable approximates carrying value due to the relatively short maturity of the instruments.

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(6) Investments in Non-Consolidated Entities

Below is a schedule of the Company's investments in non-consolidated entities:

Investment		Percentage Ownership at September 30, 2022	Investment Balance as of September 30, 2022	December 31, 2021
NNN MFG Cold JV L.P. ("MFG Cold JV")	(1)	20%	\$ 27,890	\$ 30,752
NNN Office JV L.P. ("NNN JV")	(2)	20%	8,836	24,112
Etna Park 70 LLC	(3)	90%	12,959	12,874
Etna Park East LLC	(4)	90%	2,124	2,797
BSH Lessee L.P.	(5)	25%	3,606	4,024
			<u>\$ 55,415</u>	<u>\$ 74,559</u>

- (1) MFG Cold JV is a joint venture formed in 2021 that owns special purpose industrial properties formerly owned by the Company.
(2) NNN JV is a joint venture formed in 2018 that owns office properties formerly owned by the Company.
(3) Joint venture formed in 2017 with a developer entity to acquire a parcel of land. The Company determined that it is not the primary beneficiary.
(4) Joint venture formed in 2019 with a developer entity to acquire a parcel of land. The Company determined that it is not the primary beneficiary.
(5) A joint venture investment, which owns a single-tenant, net-leased asset.

During the nine months ended September 30, 2022, NNN JV sold three assets and recognized aggregate gains of \$114,481 and the Company recognized its share of the aggregate gains on the transactions of \$22,896 within equity in earnings (losses) of non-consolidated entities in its unaudited condensed consolidated statement of operations. In conjunction with these property sales, NNN JV received net proceeds of \$141,050 after the satisfaction of an aggregate of \$166,450 of its non-recourse mortgage indebtedness. NNN JV distributed \$28,147 of net proceeds to the Company as a result of the property sales.

(7) Debt

The Company had the following mortgages and notes payable outstanding as of September 30, 2022 and December 31, 2021:

	September 30, 2022	December 31, 2021
Mortgages and notes payable	\$ 76,013	\$ 84,429
Unamortized debt issuance costs	(1,122)	(1,337)
Mortgages and notes payable, net	<u>\$ 74,891</u>	<u>\$ 83,092</u>

Interest rates, including imputed rates on mortgages and notes payable, ranged from 3.5% to 4.3%, at September 30, 2022 and December 31, 2021 and all mortgages and notes payables mature between 2023 and 2031 as of September 30, 2022. The weighted-average interest rate was approximately 4.0% at September 30, 2022 and December 31, 2021.

On July 12, 2021, LCIF encumbered two of its properties with mortgage debt in the amount of \$11,610. Subsequently, on July 12, 2021, certain operating partnership unitholders assumed the mortgages upon purchasing the properties. See Note 4, Dispositions and Impairment.

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The Company had the following senior notes outstanding as of September 30, 2022 and December 31, 2021:

Issue Date	September 30, 2022	December 31, 2021	Interest Rate	Maturity Date	Issue Price
August 2021	\$ 400,000	\$ 400,000	2.375 %	October 2031	99.758 %
August 2020	400,000	400,000	2.70 %	September 2030	99.233 %
May 2014	198,932	198,932	4.40 %	June 2024	99.883 %
	998,932	998,932			
Unamortized debt discount	(3,335)	(3,655)			
Unamortized debt issuance costs	(6,643)	(7,346)			
Senior notes payable, net	<u>\$ 988,954</u>	<u>\$ 987,931</u>			

Each series of the senior notes is unsecured and requires payment of interest semi-annually in arrears. The Company may redeem the notes at its option at any time prior to maturity in whole or in part by paying the principal amount of the notes being redeemed plus a make-whole premium.

In August 2021, the Company issued \$400,000 aggregate principal amount of 2.375% Senior Notes due 2031 ("2031 Senior Notes") at an issuance price of 99.758% of the principal amount. The Company issued the 2031 Senior Notes at an initial discount of \$968 which is being recognized as additional interest expense over the term of the 2031 Senior Notes.

During the three months ended September 30, 2021, the Company used a portion of the net proceeds from the offering of the 2031 Senior Notes to redeem the \$188,756 aggregate principal balance of its outstanding 4.25% Senior Notes due 2023 ("2023 Senior Notes"). The consideration paid included the make-whole premium of \$12,191 and \$2,028 of accrued and unpaid interest. The Company recognized a \$12,948 debt satisfaction loss related to the aggregate redemptions.

The Company has an unsecured credit agreement with KeyBank National Association, as agent. The maturity dates and interest rates as of September 30, 2022, are as follows:

	Maturity Date	Current Interest Rate
\$600,000 Revolving Credit Facility ⁽¹⁾	July 2026	SOFR + 0.85%
\$300,000 Term Loan ⁽¹⁾⁽²⁾	January 2025	Term SOFR + 1.00%

(1) In July 2022, the Company amended its revolving credit facility and the 2025 term loan with a new revolving credit facility and the continuation of the 2025 term loan (the "2022 Credit Agreement"). The 2022 Credit Agreement, among other things: (i) extended the maturity date of the revolving portion from February 2023 to July 2026, with two six-month extension options, subject to certain conditions, (ii) reduced the applicable margin for the revolving portion of the credit facility by five basis points to a range from 0.725% to 1.40%, and allows for further reductions upon the achievement of to-be-determined sustainability metrics, (iii) amended the debt covenants by reducing the capitalization rate for determining asset value and (iv) transitioned the facility to SOFR. Simultaneously, the Company converted its interest rate swap agreements to Term SOFR, which resulted in a new fixed interest rate of 2.722% on the Company's 2025 term loan. At September 30, 2022, the Company had \$130,000 borrowings outstanding and availability of \$470,000, subject to covenant compliance. The Company recognized \$119 of debt satisfaction losses in connection with the transaction.

(2) The aggregate unamortized debt issuance costs for the term loan was \$1,166 and \$1,554 as of September 30, 2022 and December 31, 2021, respectively.

The Company was compliant with all applicable financial covenants contained in its corporate-level debt agreements at September 30, 2022.

During 2007, the Company issued \$200,000 original principal amount of Trust Preferred Securities. The Trust Preferred Securities, which are classified as debt, are due in 2037, are open for redemption at the Company's option and bear interest at a variable rate of three-month LIBOR plus 170 basis points through maturity. The interest rate at September 30, 2022 was 4.482%. As of September 30, 2022 and December 31, 2021, there was \$129,120 original principal amount of Trust Preferred Securities outstanding and \$1,451 and \$1,525, respectively, of unamortized debt issuance costs.

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Capitalized interest recorded during the nine months ended September 30, 2022 and 2021 was \$4,927 and \$2,124, respectively.

(8) Derivatives and Hedging Activities

Risk Management Objective of Using Derivatives. The Company is exposed to certain risks arising from both its business operations and economic conditions. The Company principally manages its exposures to a wide variety of business and operational risks through management of its core business activities. The Company manages economic risks, including interest rate, liquidity, and credit risk primarily by managing the type, amount, sources, and duration of its debt funding and the use of derivative financial instruments. Specifically, the Company enters into derivative financial instruments to manage exposures that arise from business activities that result in the receipt or payment of future known and uncertain cash amounts, the value of which are determined by interest rates. The Company's derivative financial instruments are used to manage differences in the amount, timing, and duration of the Company's known or expected cash receipts and its known or expected cash payments principally related to the Company's investments and borrowings.

Cash Flow Hedges of Interest Rate Risk. The Company's objectives in using interest rate derivatives are to add stability to interest expense, to manage its exposure to interest rate movements and therefore manage its cash outflows as it relates to the underlying debt instruments. To accomplish these objectives, the Company primarily uses interest rate swaps as part of its interest rate risk management strategy relating to certain of its variable rate debt instruments. Interest rate swaps designated as cash flow hedges involve the receipt of variable-rate amounts from a counterparty in exchange for the Company making fixed-rate payments over the life of the agreements without exchange of the underlying notional amount.

The changes in the fair value of derivatives designated and that qualify as cash flow hedges is recorded in accumulated other comprehensive income (loss) and is subsequently reclassified into earnings in the period that the hedged forecasted transaction affects earnings. The Company did not incur any ineffectiveness during the nine months ended September 30, 2022 and 2021.

During July 2022, the Company transitioned its four interest rate swap agreements with its counterparties to a benchmark rate of Term SOFR. The swaps were designated as cash flow hedges of the risk in variability attributable to changes in the Term SOFR swap rates on its \$300,000 SOFR-indexed variable rate unsecured term loan. Accordingly, changes in fair value of the swaps are recorded in other comprehensive income (loss) and reclassified to earnings as interest becomes receivable or payable. The swaps expire coterminous with the maturity of the term loan in January 2025. During the next 12 months, the Company estimates that an additional \$7,543 will be reclassified as a decrease in interest expense if the swaps remain outstanding.

Interest Rate Derivative	Number of Instruments	Notional
Interest Rate Swaps	4	\$300,000

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The table below presents the fair value of the Company's derivative financial instruments as well as their classification on the unaudited condensed consolidated balance sheets:

	As of September 30, 2022		As of December 31, 2021	
	Balance Sheet Location	Fair Value	Balance Sheet Location	Fair Value
Derivatives designated as hedging instruments				
Interest Rate Swaps	Other Assets	\$ 16,586	Other Liabilities	\$ (6,258)

The table below presents the effect of the Company's derivative financial instruments on the unaudited condensed consolidated statements of operations for the nine months ended September 30, 2022 and 2021.

Derivatives in Cash Flow Hedging Relationships	Amount of Gain Recognized in OCI on Derivatives September 30,		Amount of Loss Reclassified from Accumulated OCI into Income ⁽¹⁾ September 30,	
	2022	2021	2022	2021
Interest Rate Swaps	\$ 21,316	\$ 3,381	\$ 1,528	\$ 3,691

(1) Amounts reclassified from accumulated other comprehensive income (loss) to interest expense within the unaudited condensed consolidated statement of operations.

Total interest expense presented in the unaudited condensed consolidated statements of operations, which includes the effects of cash flow hedges, was \$32,758 and \$35,170 for the nine months ended September 30, 2022 and 2021, respectively.

The Company's agreements with swap derivatives counterparties contain provisions whereby if the Company defaults on the underlying indebtedness, including default where repayment of the indebtedness has not been accelerated by the lender, then the Company could also be declared in default of the swap derivative obligation. As of September 30, 2022, the Company had not posted any collateral related to the agreements.

(9) Lease Accounting

Lessor

The Company's lease portfolio as a lessor primarily includes general purpose, single-tenant net-leased real estate assets. Most of the Company's leases require tenants to pay fixed annual rental payments that escalate on an annual basis and variable payments for other operating expenses, such as real estate taxes, insurance, common area maintenance ("CAM"), and utilities, that are based on the actual expenses incurred.

Certain leases allow for the tenant to renew the lease term upon expiration or earlier. Periods covered by a renewal option are included within the lease term only when renewals are deemed to be reasonably certain. Certain leases allow for the tenant to terminate the lease before the expiration of lease term and certain leases provide the tenant with the right to purchase the leased property at fair market value or a stipulated price upon expiration of the lease term or before.

Accounting guidance under Topic 842 requires the Company to make certain assumptions and judgments in applying the guidance, including determining whether an arrangement includes a lease and determining the lease term when the contract has renewal, purchase or early termination provisions.

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The Company analyzes its accounts receivable, customer creditworthiness and current economic trends when evaluating the adequacy of the collectability of the lessee's total accounts receivable balance on a lease by lease basis. In addition, tenants in bankruptcy are analyzed and considerations are made in connection with the expected pre-petition and post-petition claims. If a lessee's accounts receivable balance is considered uncollectible, the Company will write-off the receivable balances associated with the lease to rental revenue and cease to recognize lease income, including straight-line rent, unless cash is received. If the Company subsequently determines that it is probable it will collect substantially all of the lessee's remaining lease payments under the lease term; the Company will reinstate the straight-line balance adjusting for the amount related to the period when the lease was accounted for on a cash basis.

Certain tenants have been experiencing financial difficulties as a result of the current economic conditions. During the nine months ended September 30, 2022 and 2021, the Company wrote off an aggregate of \$316 and \$463, respectively, accounts receivable relating to certain tenants suffering from the current economic conditions.

The Company elected that the lease and non-lease components in its leases are a single lease component, which is, therefore, being recognized as rental revenue in its unaudited condensed consolidated statements of operations. The primary non-lease service included within rental revenue is CAM services provided as part of the Company's real estate leases. Topic 842 requires that the Company capitalize, as initial direct costs, only those costs that are incurred due to the execution of a lease. For the nine months ended September 30, 2022, the Company incurred \$30 of costs that were not incremental to the execution of leases, which are included in property operating expenses on its unaudited condensed consolidated statements of operations. The Company incurred no costs that were not incremental to the execution of leases in 2021.

The Company manages the risk associated with the residual value of its leased properties by including contract clauses that make tenants responsible for surrendering the space in good condition upon lease termination, holding a diversified portfolio, and other activities. The Company does not have residual value guarantees on specific properties.

The following table presents the Company's classification of rental revenue for its operating leases for the three and nine months ended September 30, 2022 and 2021:

Classification	Three Months Ended September 30,		Nine Months Ended September 30,	
	2022	2021	2022	2021
Fixed	\$ 66,956	\$ 71,357	\$ 200,965	\$ 213,929
Variable ⁽¹⁾⁽²⁾	11,318	10,996	33,784	40,641
Total	<u>\$ 78,274</u>	<u>\$ 82,353</u>	<u>\$ 234,749</u>	<u>\$ 254,570</u>

(1) Primarily comprised of tenant reimbursements.

(2) Variable income contains termination income of \$238 and \$14,105 for the nine months ended September 30, 2022 and 2021, respectively. The 2021 termination income is primarily related to a tenant that terminated its lease at the Company's Durham, New Hampshire industrial property.

In May 2022, one of the Company's tenants exercised the purchase option for \$28,000 in its operating lease with a sale date of July 2022. The purchase option was not reasonably certain to be exercised at lease inception, resulting in a modification of the operating lease. As a result of this modification to the lease, the Company re-evaluated the lease classification and classified the lease as a sales-type lease. The Company recorded \$28,000 in Investment in a sales-type lease and derecognized \$17,292 from Real estate, net, \$619 from Deferred expenses and \$775 from Rent receivable-deferred on its unaudited condensed consolidated balance sheet. The Company recognized \$9,314 in Selling profit from sales-type leases in its unaudited condensed consolidated statements of operations for the nine months ended September 30, 2022. In July, the tenant completed the purchase of the property, resulting in the derecognition of the \$28,000 investment in a sales-type lease.

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Future fixed rental receipts for operating leases, assuming no new or re-negotiated leases as of September 30, 2022 were as follows:

Nine months ended September 30,	Total
2022 - remainder	\$ 64,707
2023	260,818
2024	233,959
2025	213,892
2026	193,909
2027	158,445
Thereafter	591,832
Total	<u>\$ 1,717,562</u>

The above minimum lease payments do not include reimbursements to be received from tenants for certain operating expenses and real estate taxes and do not include early termination payments provided for in certain leases, unless such payments are reasonably certain to be received.

Lessee

The Company, as lessee, has ground leases, corporate leases for office space, and office equipment leases. All leases were classified as operating leases as of September 30, 2022. The leases have remaining lease terms of up to 38 years. Renewal periods are included in the lease term only when renewal is deemed to be reasonably certain. The lease term also includes periods covered by an option to terminate the lease if the Company is reasonably certain not to exercise the termination option. The Company measures its lease payments by including fixed rental payments and variable rental payments that tie to an index or a rate, such as CPI. The Company recognizes lease expense for its operating leases on a straight-line basis over the lease term and variable lease expense not included in the lease payment measurement as incurred.

The accounting guidance under Topic 842 requires the Company to make certain assumptions and judgments in applying the guidance, including determining whether an arrangement includes a lease, determining the term of a lease when the contract has renewal or termination provisions and determining the discount rate.

The Company determines whether an arrangement is or includes a lease at contract inception by evaluating whether the contract conveys the right to control the use of an identified asset for a period of time in exchange for consideration. If the Company has the right to obtain substantially all of the economic benefits from and can direct the use of, the identified asset for a period of time, the Company accounts for the contract as a lease.

The Company uses the information available at the lease commencement date to determine the discount rate for any new leases. The Company used a portfolio approach to determine its incremental borrowing rate. Lease contracts were grouped based on similar lease terms and economic environments in a manner in which the Company reasonably expects that the outcome from applying a portfolio approach does not differ materially from an individual lease approach. The Company estimated a collateralized discount rate for each portfolio of leases.

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Supplemental information related to operating leases is as follows:

	Nine Months Ended	
	September 30, 2022	September 30, 2021
Weighted-average remaining lease term		
Operating leases (years)	9.4	11.3
Weighted-average discount rate		
Operating leases	4.0 %	4.1 %

The components of lease expense for the nine months ended September 30, 2022 and 2021 were as follows:

Income Statement Classification	Fixed	Variable	Total
2022:			
Property operating	\$ 2,657	\$ —	\$ 2,657
General and administrative	1,144	81	1,225
Total	\$ 3,801	\$ 81	\$ 3,882
2021:			
Property operating	\$ 2,734	\$ 2	\$ 2,736
General and administrative	1,037	24	1,061
Total	\$ 3,771	\$ 26	\$ 3,797

The Company recognized sublease income of \$2,490 and \$2,569 for the nine months ended September 30, 2022 and 2021, respectively.

The following table shows the Company's maturity analysis of its operating lease liabilities as of September 30, 2022:

	Operating Leases
2022 - remainder	\$ 1,198
2023	5,290
2024	5,199
2025	5,204
2026	4,174
2027	3,673
Thereafter	7,501
Total lease payments	\$ 32,239
Less: Imputed interest	(6,177)
Present value of operating lease liabilities	\$ 26,062

(10) Concentration of Risk

The Company seeks to reduce its operating and leasing risks through the geographic diversification of its properties, tenant industry diversification, avoidance of dependency on a single asset and the creditworthiness of its tenants. For the nine months ended September 30, 2022 and 2021, no single tenant represented greater than 10% of rental revenues.

Cash and cash equivalent balances at certain institutions may exceed insurable amounts. The Company believes it mitigates this risk by investing in or through major financial institutions.

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(11) Equity

Shareholders' Equity:

At-The-Market Offering Program. The Company maintains an At-The-Market offering program ("ATM program") under which the Company can issue common shares, including through forward sales contracts.

During the nine months ended September 30, 2021, the Company sold 1,052,800 shares under the ATM Program for net proceeds of \$13,574. The Company did not sell shares under the ATM program during the nine months ended September 30, 2022.

During the nine months ended September 30, 2022, the Company issued 3,649,023 common shares previously sold on a forward basis in the first quarter of 2021 on the maturity date of the contracts and received \$38,492 of net proceeds. During the nine months ended September 30, 2021, the Company settled 3,875,751 common shares previously sold on a forward basis on the maturity date of the contract and received \$41,933 of net proceeds.

During 2021, the Company amended the terms of its ATM offering program, under which the Company may, from time to time, sell up to \$350,000 of common shares over the term of the program. As of September 30, 2022, common shares with an aggregate value of \$294,985 remain available for issuance under the ATM program.

Underwritten equity offerings. During 2021, the Company entered into forward sales contracts for the sale of 16,000,000 common shares at a public offering price of \$12.11 per common share in an underwritten equity offering that have not yet settled. The forward sales contracts mature in December 2022, subject to the Company's rights to elect cash or net share settlement. As of September 30, 2022, the forward sales contracts had an aggregate settlement price of \$182,141, which is subject to adjustment in accordance with the forward sales contracts.

Stock Based Compensation. During the nine months ended September 30, 2022 and 2021, the Company issued 47,505 and 38,803, respectively, of fully vested common shares to non-management members of the Company's Board of Trustees with a fair value of \$616 and \$437, respectively.

Share Repurchase Program. In August 2022, the Company's Board of Trustees authorized the repurchase of an additional up to 10,000,000 common shares under the Company's share repurchase program with no expiration date. During the nine months ended September 30, 2022, 11,702,074 common shares were repurchased and retired for an average price of \$10.84 per share. There were no common shares repurchased during the nine months ended September 30, 2021. As of September 30, 2022, 7,274,241 common shares remain available for repurchase under this authorization. The Company records a liability for repurchases that have not yet been settled as of the period end. There were \$3,649 of unsettled repurchases as of September 30, 2022.

Series C Preferred Stock. The Company had 1,935,400 shares of Series C Cumulative Convertible Preferred Stock ("Series C Preferred") outstanding at September 30, 2022. The shares have a dividend of \$3.25 per share per annum and have a liquidation preference of \$96,770. As of September 30, 2022, each share was convertible into 2.4339 common shares. This conversion ratio may increase over time if the Company's common share dividend exceeds certain quarterly thresholds.

If certain fundamental changes occur, holders may require the Company, in certain circumstances, to repurchase all or part of their shares of Series C Preferred. In addition, upon the occurrence of certain fundamental changes, the Company will, under certain circumstances, increase the conversion rate by a number of additional common shares or, in lieu thereof, may in certain circumstances elect to adjust the conversion rate upon the shares of Series C Preferred becoming convertible into shares of the public acquiring or surviving company.

The Company may, at the Company's option, cause shares of Series C Preferred to be automatically converted into that number of common shares that are issuable at the then prevailing conversion rate. The Company may exercise its conversion right only if, at certain times, the closing price of the Company's common shares equals or exceeds 125% of the then prevailing conversion price of the Series C Preferred.

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Holders of shares of Series C Preferred generally have no voting rights, but will have limited voting rights if the Company fails to pay dividends for six or more quarters and under certain other circumstances. Upon conversion, the Company may choose to deliver the conversion value to investors in cash, common shares, or a combination of cash and common shares.

A summary of the changes in accumulated other comprehensive income (loss) related to the Company's cash flow hedges is as follows:

	Nine Months Ended September 30,	
	2022	2021
Balance at beginning of period	\$ (6,258)	\$ (17,963)
Other comprehensive income before reclassifications	22,469	3,381
Amounts of loss reclassified from accumulated other comprehensive income to interest expense	1,557	3,691
Balance at end of period	<u>\$ 17,768</u>	<u>\$ (10,891)</u>

Noncontrolling Interests. In conjunction with several of the Company's acquisitions in prior years, sellers were issued limited partner interests in LCIF ("OP units") as a form of consideration. All OP units, other than OP units owned by the Company, are redeemable for common shares at certain times, at the option of the holders, and are generally not otherwise mandatorily redeemable by the Company. The OP units are classified as a component of permanent equity as the Company has determined that the OP units are not redeemable securities as defined by GAAP. Each OP unit is currently redeemable at the holder's option for approximately 1.13 common shares, subject to future adjustments.

As of September 30, 2022, there were approximately 745,000 OP units outstanding other than OP units owned by the Company. All OP units receive distributions in accordance with the LCIF partnership agreement. To the extent that the Company's dividend per common share is less than the stated distribution per OP unit per the LCIF partnership agreement, the distributions per OP unit are reduced by the percentage reduction in the Company's dividend per common share. No OP units have a liquidation preference.

The following discloses the effects of changes in the Company's ownership interests in its noncontrolling interests:

	Net Income Attributable to Shareholders and Transfers from Noncontrolling Interests	
	Nine Months Ended September 30,	
	2022	2021
Net income attributable to LXP Industrial Trust shareholders	\$ 75,310	\$ 120,358
Transfers from noncontrolling interests:		
Increase in additional paid-in-capital for reallocation of noncontrolling interests	—	435
Increase in additional paid-in-capital for redemption of noncontrolling OP units	177	670
Change from net income attributable to shareholders and transfers from noncontrolling interests	<u>\$ 75,487</u>	<u>\$ 121,463</u>

(12) Related Party Transactions

There were no related party transactions other than those disclosed elsewhere in these unaudited condensed consolidated financial statements.

(13) Commitments and Contingencies

In addition to the commitments and contingencies disclosed elsewhere, the Company has the following commitments and contingencies.

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The Company is obligated under certain tenant leases, including its proportionate share for leases for non-consolidated entities, to fund the expansion of the underlying leased properties. The Company, under certain circumstances, may guarantee to tenants the completion of base building improvements and the payment of tenant improvement allowances and lease commissions on behalf of its subsidiaries.

As of September 30, 2022, the Company had six ongoing consolidated development projects and expects to incur approximately \$56,400 and \$113,300 in the remainder of 2022 and 2023, respectively, excluding noncontrolling interests' share, to substantially complete the construction of the projects. As of September 30, 2022, the Company has interests in various land parcels held for development. The Company is unable to estimate the timing of any required funding for the potential development projects on these parcels.

The Company and LCIF are parties to a funding agreement under which the Company may be required to fund distributions made on account of LCIF's OP units. Pursuant to the funding agreement, the parties agreed that, if LCIF does not have sufficient cash available to make a quarterly distribution to its limited partners in an amount in accordance with the partnership agreement, LXP will fund the shortfall. Payments under the agreement will be made in the form of loans to LCIF and will bear interest at prevailing rates as determined by the Company in its discretion but, no less than the applicable federal rate. LCIF's right to receive these loans will expire if no OP units remain outstanding and all such loans are repaid. No amounts have been advanced under this agreement.

From time to time, the Company is directly or indirectly involved in legal proceedings arising in the ordinary course of business. Management believes, based on currently available information, and after consultation with legal counsel, that although the outcomes of those normal course proceedings are uncertain, the results of such proceedings, in the aggregate, will not have a material adverse effect on the Company's business, financial condition and results of operations.

(14) Supplemental Disclosure of Statement of Cash Flow Information

In addition to disclosures discussed elsewhere, during the nine months ended September 30, 2022 and 2021, the Company paid \$33,430 and \$35,515, respectively, for interest and \$1,218 and \$1,273, respectively, for income taxes.

During the nine months ended September 30, 2022 and 2021, the Company accrued additions for capital projects of \$52,049 and \$20,540, respectively.

During the nine months ended September 30, 2021, the Company exercised extension options on a lease that resulted in a non-cash increase of \$438 to the related operating lease liability and right of use asset.

During the nine months ended September 30, 2021, LCIF disposed of three real estate assets. The consideration included the redemption of 1,598,906 OP Units valued at \$22,305 and the assumption of the aggregate related non-recourse debt of \$11,610.

During the nine months ended September 30, 2021, the acquisition of the interests in RR Ocala 44, LLC joint venture not already owned by the Company included a \$489 non-cash increase to investments in real estate under construction and the noncontrolling interest because a member of the joint venture made a non-cash contribution of the land in exchange for its ownership interest in the joint venture.

(15) Subsequent Events

Subsequent to September 30, 2022, the Company:

- leased approximately 100 acres of land in the Phoenix, Arizona market for 20 years;
- repurchased and retired 400,000 common shares for an average price of \$9.10 per share; and
- borrowed \$55,000 on its revolving credit facility.

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

Introduction

When we use the terms the "Company," the "Trust," "LXP," "we," "our," and "us," we refer collectively to LXP Industrial Trust and its consolidated subsidiaries. All of the Company's interests are held, and all of the property operating activities are conducted through special purposes entities, which we refer to as property owner subsidiaries or lender subsidiaries and are separate and distinct legal entities, but in some instances are consolidated for financial statement purposes and/or disregarded for income tax purposes. References herein to "this Quarterly Report" are to this Quarterly Report on Form 10-Q for the three and nine months ended September 30, 2022. The results of operations contained herein for the three and nine months ended September 30, 2022 and 2021 are not necessarily indicative of the results that may be expected for a full year.

When we use the term "REIT," we mean real estate investment trust. All references to 2022 and 2021, refer to the periods ending September 30, 2022 and 2021, respectively and our fiscal year ended December 31, 2021.

When we use the term "GAAP," we mean United States generally accepted accounting principles in effect from time to time.

When we use the term "common shares," we mean our shares of beneficial interest par value \$0.0001, classified as common stock. When we use the term "Series C Preferred Shares," we mean our beneficial interest classified as 6.50% Series C Cumulative Convertible Preferred Stock.

When we use the term "base rent," we mean GAAP rental revenue and ancillary income, excluding billed tenant reimbursements and lease termination income.

The following is a discussion and analysis of the unaudited condensed consolidated financial condition and results of operations of LXP Industrial Trust for the three and nine months ended September 30, 2022 and 2021, and significant factors that could affect its prospective financial condition and results of operations. This discussion should be read together with the accompanying unaudited condensed consolidated financial statements of the Company included herein and notes thereto and with the consolidated financial statements and notes thereto included in the Company's most recent Annual Report on Form 10-K, which was filed with the Securities and Exchange Commission, or SEC, on February 24, 2022, which we refer to as the Annual Report. Historical results may not be indicative of future performance.

Forward-Looking Statements. This Quarterly Report, together with other statements and information publicly disseminated by us, contains certain forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, or the Securities Act, and Section 21E of the Securities Exchange Act of 1934, as amended, or the Exchange Act. We intend such 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 include this statement for purposes of complying with these safe harbor provisions. Forward-looking statements, which are based on certain assumptions and describe our future plans, strategies and expectations, are generally identifiable by use of the words "believes," "expects," "intends," "anticipates," "estimates," "projects," "may," "plans," "predicts," "will," "will likely result" or similar expressions. Readers should not rely on forward-looking statements since they involve known and unknown risks, uncertainties and other factors which are, in some cases, beyond our control and which could materially affect actual results, performances or achievements. In particular, among the factors that could cause actual results, performances or achievements to differ materially from current expectations, strategies or plans include, among others, those risks discussed below in "Management's Discussion and Analysis of Financial Condition and Results of Operations," and under the headings "Risk Factors" in this Quarterly Report and under "Risk Factors" in Part I, Item A and "Management's Discussion and Analysis of Financial Condition and Results of Operations" in Part II, Item 7 of the Annual Report and other periodic reports filed by the Company with the SEC. Except as required by law, we undertake no obligation to publicly release any revisions to these forward-looking statements which may be made to reflect events or circumstances after the date hereof or to reflect the occurrence of unanticipated events. Accordingly, there is no assurance that our expectations will be realized.

Overview

As of September 30, 2022, we had equity ownership interests in approximately 118 consolidated real estate properties, located in 21 states and containing an aggregate of approximately 54.1 million square feet of space, approximately 99.1% of which was leased.

Since December 31, 2015 through September 30, 2022, we transitioned our portfolio from approximately 16% warehouse/distribution assets to approximately 99% warehouse/distribution assets. As of September 30, 2022, our portfolio consisted of 109 warehouse/distribution facilities and nine other properties.

On February 8, 2022, we announced that our Board of Trustees initiated a review of our strategic alternatives. On April 8, 2022, we announced that our Board of Trustees suspended the review of strategic alternatives.

Third Quarter 2022 Transaction Summary:

The following summarizes our significant transactions during the three months ended September 30, 2022.

Leasing Activity:

During the third quarter of 2022, we entered into new leases and lease extensions encompassing 0.3 million square feet. The average fixed rent on these extended leases was \$7.57 per square foot compared to the average fixed rent on these leases before extension of \$5.38 per square foot. The weighted-average cost of tenant improvements and lease commissions was \$0.95 per square foot for extended leases and \$2.26 per square foot for new first generation leases.

Investments:

- Invested \$70.6 million in six ongoing development projects, which amount excludes our joint venture partners' share.

Capital Recycling:

- Disposed of our interest in an industrial warehouse/distribution property and two office/other properties for an aggregate gross sales price of \$92.0 million.

Debt:

- Amended our revolving credit facility and the 2025 term loan with a new revolving credit facility and the continuation of the 2025 term loan (the "2022 Credit Agreement"). The 2022 Credit Agreement, among other things: (i) extended the maturity date of the revolving portion from February 2023 to July 2026, with two six-month extension options, subject to certain conditions, (ii) reduced the applicable margin for the revolving portion of the credit facility by five basis points to a range from 0.725% to 1.40%, and allows for further reductions upon the achievement of to-be-determined sustainability metrics, (iii) amended the debt covenants by reducing the capitalization rate for determining asset value and (iv) transitioned the facility to SOFR. Simultaneously, we converted the interest rate swap agreements to Term SOFR, which resulted in a new fixed interest rate of 2.722% on the 2025 term loan.
- Borrowed \$10.0 million, net, on our revolving credit facility.

Equity:

- Increased the availability under the repurchase program by 10.0 million shares.
- Repurchased and retired 5.6 million common shares for an average price of \$10.16 per share.

Acquisition/Disposition Activity:

During the nine months ended September 30, 2022, we acquired the following warehouse/distribution assets:

Market	Square Feet	Initial Capitalized Cost (millions)	Date Acquired	Approximate Lease Term (years)	% Leased at Acquisition
Cincinnati/Dayton, OH ⁽¹⁾	232,500	\$ 23.4	February 2022	N/A	— %
Cincinnati/Dayton, OH	544,320	48.7	February 2022	10	100 %
Phoenix, AZ	268,872	59.1	April 2022	15	100 %
	1,045,692	\$ 131.2			

(1) Subsequent to acquisition, property was fully leased for approximately nine years.

Our acquisition activity for 2022 compared to our acquisition activity for 2021 has been, and is expected to continue to be, modest primarily due to current market conditions. In addition, we have been prioritizing development over acquisitions due to the increased yield that development generally provides. We continue to monitor the acquisition market, but price discovery has been occurring in most markets.

During the nine months ended September 30, 2022, we disposed of six properties, inclusive of the dispositions referenced above, for an aggregate gross disposition price of \$147.3 million.

Development Activity:

As of September 30, 2022, we had six consolidated development projects in process with an aggregate estimated total cost of \$515.8 million. We anticipate our remaining funding obligation to substantially complete the construction and estimated tenant improvements and leasing costs of these six projects, exclusive of our joint venture partners' share, to be approximately \$169.7 million. However, the risks associated with development, including supply chain issues, could adversely impact our estimates.

Critical Accounting Estimates

In preparing the consolidated financial statements we have made estimates and assumptions that affect the reported amounts of assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting periods. Accounting estimates are deemed critical if they involve a significant level of estimation uncertainty and have had or are reasonably likely to have a material impact on our financial condition or results of operations. Below is a summary of the critical accounting estimates used in the preparation of our unaudited condensed consolidated financial statements. A summary of our significant accounting policies which are important to the portrayal of our financial condition and results of operations is set forth in (1) Note 2 to our audited consolidated financial statements, which are included in "Financial Statements and Supplementary Data" in Part II, Item 8 of the Annual Report and (2) Note 2 to our unaudited condensed consolidated financial statements contained in this Quarterly Report.

Acquisition of Real Estate. Primarily all of our acquisitions of real estate assets and liabilities are accounted for as asset acquisitions. As such, the purchase prices of acquired tangible and intangible assets and liabilities are recorded and allocated at fair value on a relative basis. The recorded allocations of tangible assets are based on the "as-if-vacant" value using estimated cash flow projections of the properties acquired which incorporates discount, capitalization and interest rates as well as available comparable market information. Allocations of intangible assets includes management's estimates of current market rents and leasing costs.

We use considerable judgement in our estimates of cash flow projections, discount, capitalization and interest rates, fair market lease rates, carrying costs during hypothetical expected lease-up periods and costs to execute similar leases. While our methodology for purchase price allocation did not change during the nine months ended September 30, 2022, the real estate market is fluid and our assumptions are based on information currently available in the market at the time of acquisition. Significant increases or decreases in these key estimates, particularly with regards to cash flow projections and discount and capitalization rates, would result in a significantly lower or higher fair value measurement of the real estate assets being acquired.

Revenue Recognition. We enter into agreements with tenants that convey the right to control the use of identified space at our properties in exchange for rental revenue. These agreements meet the criteria for recognition as leases under Accounting Standards Codification ("ASC") 842, *Leases*. We recognize lease revenue on a straight-line basis over the term of the lease unless another systematic and rational basis is more representative of the time pattern in which the use benefit is derived from the leased property. We commence revenue recognition when possession or control of the space is turned over to the tenant.

We evaluate the collectability of our rental payments and recognize revenue on a cash basis when we believe it is no longer probable that we will receive substantially all of the remaining lease payments. Management exercises judgment in assessing collectability of tenant receivables and considers payment history, current credit status, publicly available information about the financial condition of the tenant and other factors. Our assessment of the collectability of tenant receivables can have a significant impact on the rental revenue recognized in our unaudited condensed consolidated statements of operations.

Impairment of Real Estate. We record impairments of our real estate assets classified as held for use when triggering events dictate that an asset may be impaired. An impairment is recorded when the carrying amount of the asset exceeds the sum of its undiscounted future operating and residual cash flows. The impairment recorded is the difference between estimated fair value of the asset and the carrying amount. We record impairments of our real estate assets classified as held for sale at the lower of the carrying amount or estimated fair value using the estimated or contracted sales price less costs to sell. Any real estate assets recorded at fair value on a non-recurring basis as a result of our impairment analysis are valued using unobservable local and national industry market data such as comparable sales, appraisals, brokers' opinions of value and/or terms of definitive sales contracts. Additionally, the analysis includes considerable judgment in our estimates of hold periods, projected cash flows and discount and capitalization rates. Significant increases or decreases in any of these inputs, particularly with regards to cash flow projections and discount and capitalization rates, would result in a significantly lower or higher fair value measurement of the real estate assets being assessed.

We will record an impairment charge related to our investments, including investments in non-consolidated entities, if we determine the fair value of the investments are less than their carrying value and such impairment is other-than-temporary. We evaluate whether events or changes in circumstances indicate that the carrying amount of our investments may not be recoverable. Our evaluation of changes in economic or operating conditions and whether an impairment is other-than-temporary may include developing estimates of fair value, forecasted cash flows or operating income before depreciation and amortization. We estimate undiscounted cash flows and fair value using observable and unobservable data such as operating income, hold periods, estimated capitalization and discount rates, or relevant market multiples, leasing prospects and local market information and whether certain impairments are other-than-temporary.

Liquidity and Capital Resources

Cash Flows. We believe that cash flows from operations will continue to provide adequate capital to fund our operating and administrative expenses, regular debt service obligations and all dividend payments in accordance with applicable REIT requirements in both the short-term and long-term, however, our cash flow from operations may be negatively affected in the near term if we experience tenant defaults as a result of the effects of the current economic condition. In addition, we anticipate that cash on hand, borrowings under our unsecured revolving credit facility, capital recycling proceeds, issuances of equity, mortgage proceeds and other debt, as well as other available alternatives, will provide the necessary capital required by our business.

At September 30, 2022, our property owner subsidiaries do not have mortgage maturities with balloon payments due until 2031. In addition, certain of our subsidiaries are obligated to fund the construction of our development projects and we sometimes guaranty these obligations. We believe our property owner subsidiaries have sufficient sources of liquidity to meet these obligations through future cash flows from operations, the credit markets and, if determined appropriate by us, a capital contribution from us from either cash on hand (\$29.4 million at September 30, 2022), property sale proceeds, borrowing capacity under our unsecured revolving credit facility (\$470.0 million at September 30, 2022, subject to covenant compliance), unsettled forward common share sale contracts, and future cash flows from operations.

Cash flows from operations were \$154.1 million for the nine months ended September 30, 2022 as compared to \$167.4 million for the nine months ended September 30, 2021. The decrease was primarily related to property sales and a decrease in termination fee income, partially offset by the impact of cash flow generated from acquiring properties. The underlying drivers that impact our working capital, and therefore cash flows from operations, are the timing of collection of rents, including reimbursements from tenants, payment of interest on mortgage debt and payment of operating and general and administrative costs. We believe the net-lease structure of the leases encumbering a majority of the properties in which we have an interest mitigates the risks of the timing of cash flows from operations since the payment and timing of operating costs related to the properties are generally borne directly by the tenant. The collection and timing of tenant rents are closely monitored by management as part of our cash management program.

Net cash used in investing activities totaled \$208.2 million and \$344.1 million during the nine months ended September 30, 2022 and 2021, respectively. Cash used in investing activities related primarily to acquisitions of real estate, investments in real estate under construction, capital expenditures, lease costs, investments in non-consolidated entities and changes in real estate deposits, net. Cash provided by investing activities primarily related to net proceeds received from the disposition of real estate and distributions from non-consolidated entities.

Net cash (used in) provided by financing activities totaled \$(107.5) million and \$147.7 million during the nine months ended September 30, 2022 and 2021, respectively. Cash used in financing activities in 2022 was primarily related to the repurchase of common shares, the purchase of a noncontrolling interest and dividend and debt service payments, offset by credit facility borrowings. Cash provided by financing activities in 2021 was primarily related to the issuance of the 2031 Senior Notes, revolving credit facility borrowings, mortgage proceeds, issuances of common shares and cash contributions from noncontrolling interests, offset by the redemption of the 2023 Senior Notes, dividend and debt service payments.

Common Share Issuances:

At-The-Market Offering Program. We maintain an At-The-Market offering program ("ATM program") under which the Company can issue common shares, including through forward sales contracts.

During the nine months ended September 30, 2021, we sold 1.1 million shares under the ATM Program for net proceeds of \$13.6 million. We did not sell shares under the ATM program during the nine months ended September 30, 2022.

During the nine months ended September 30, 2022, we settled 3.6 million common shares previously sold in 2021 on a forward basis on the maturity date of the contracts and received \$38.5 million of net proceeds. During the nine months ended September 30, 2021, we settled 3.9 million common shares previously sold on a forward basis on the maturity date of the contract and received \$41.9 million of net proceeds. All forward sales contracts under our ATM program have been settled as of September 30, 2022.

In February 2021, we amended the terms of our ATM offering program, under which we may, from time to time, sell up to \$350.0 million common shares over the term of the program. As of September 30, 2022, common shares with an aggregate value of \$295.0 million remain available for issuance under the ATM program.

Underwritten Equity Offerings. In May 2021, we entered into forward sales contracts for the sale of 16,000,000 common shares at a public offering price of \$12.11 per common share in an underwritten equity offering that have not yet settled. The forward sales contracts mature in December 2022, subject to our right to elect cash or net share settlement. As of September 30, 2022, the forward sales contracts had an aggregate settlement price of \$182.1 million, which is subject to adjustment in accordance with the forward sales contracts.

The volatility in the capital markets primarily resulting from the effects of the current economic conditions may negatively affect our ability to access the capital markets through our ATM program and other offerings.

Share Repurchase Program. During 2022, our Board of Trustees authorized the repurchase of an additional 10.0 million common shares under the Company's share repurchase program with no expiration date. During the nine months ended September 30, 2022, we repurchased and retired approximately 11.7 million common shares at an average price of \$10.84 per share. We did not repurchase any common shares during the nine months ended September 30, 2021. Approximately 7.3 million common shares remained available for repurchase under the current authorization as of September 30, 2022. We have continued to, and in the future may, repurchase our common shares in the context of our overall capital plan and to the extent we believe market volatility offers prudent investment opportunities based on our common share price versus net asset value per share.

Dividends. Dividends paid to our common and preferred shareholders were \$107.9 million and \$95.9 million in the nine months ended September 30, 2022 and 2021, respectively.

We declared a quarterly dividend of \$0.12 per common share during the three months ended September 30, 2022, which is an increase from the \$0.1075 per common share quarterly dividend declared during the three months ended September 30, 2021.

UPREIT Structure. As of September 30, 2022, 0.7 million units of limited partner interests, or OP units, in our operating partnership, LCIF, were outstanding not including OP units held by us. Assuming all outstanding OP units not held by us were redeemed on such date, the estimated fair value of such OP units was \$7.7 million based on our closing price of \$9.16 per common share as of September 30, 2022 and a redemption factor of approximately 1.13 common shares per OP unit.

Financings. The following senior notes were outstanding as of September 30, 2022:

Issue Date	Face Amount (\$000)	Interest Rate	Maturity Date	Issue Price
August 2021	\$ 400,000	2.375 %	October 2031	99.758 %
August 2020	400,000	2.70 %	September 2030	99.233 %
May 2014	198,932	4.40 %	June 2024	99.883 %
	<u>\$ 998,932</u>			

Each series of senior notes is unsecured and requires payment of interest semi-annually in arrears. We may redeem the notes at our option at any time prior to maturity in whole or in part by paying the principal amount of the senior notes being redeemed plus a make-whole premium.

A summary of the maturity dates and interest rates of our unsecured credit agreement, as of September 30, 2022, are as follows:

	Maturity Date	Current Interest Rate
\$600.0 Million Revolving Credit Facility ⁽¹⁾	July 2026	SOFR + 0.85%
\$300.0 Million Term Loan ⁽²⁾	January 2025	Term SOFR + 1.00%

- (1) Maturity date of the revolving credit facility can be extended to July 2027 at our option. The interest rate ranges from SOFR plus 0.725% to 1.40%. At September 30, 2022, we had \$130.0 million borrowings outstanding and availability of \$470.0 million, subject to covenant compliance.
- (2) The Term SOFR portion of the interest rate was swapped to obtain a current fixed rate of 2.722%.

As of September 30, 2022, we were compliant with all applicable financial covenants contained in our corporate-level debt agreements.

Contractual Obligations

As of September 30, 2022, we had six ongoing consolidated development projects and expect to incur approximately \$56.4 million and \$113.3 million of costs in the remainder of 2022 and 2023, respectively, excluding noncontrolling interests' share, to substantially complete the construction of such projects and estimated tenant improvement and leasing costs. As of September 30, 2022, we had interests in various land parcels held for development. We are unable to estimate the timing of any required funding for potential development projects on these parcels.

Results of Operations

Three months ended September 30, 2022 compared with three months ended September 30, 2021. The increase in net income attributable to common shareholders of \$16.7 million was primarily due to the items discussed below.

The decrease in total gross revenues of \$3.3 million was primarily due to property sales, including the recapitalization of our special purpose industrial portfolio now owned by MFG Cold JV, which was partially offset by revenue from recently acquired properties and an increase in advisory fees during the three months ended September 30, 2022.

The increase in property operating expense of \$2.6 million was primarily due to an increase in operating expense responsibilities at certain properties.

The increase in general and administrative expenses of \$0.7 million was primarily due to an increase in costs related to shareholder activism and trustee fees.

The decrease in interest and amortization expense of \$1.0 million related primarily to a \$1.4 million increase in capitalized interest related to increased development. The decrease was partially offset by increased interest rates on our variable-rate unsecured debt during the three months ended September 30, 2022 compared to the three months ended September 30, 2021.

The decrease in debt satisfaction losses, net of \$13.1 million was primarily related to the redemption of the 2023 Senior Notes in the third quarter of 2021.

The decrease in impairment charges of \$1.4 million was related to the timing of impairment charges recognized on certain properties. The impairments in each period were primarily due to a potential sale, vacancy and lack of leasing prospects.

The increase in gains on sales of properties of \$8.7 million was related to the timing of property dispositions.

The decrease in equity in earnings (losses) of non-consolidated entities of \$1.3 million was primarily due to property sales and recognizing our share of impairment charges related to NNN JV in 2022 that resulted in a decrease in equity in earnings of \$0.7 million. Additionally, we incurred \$0.6 million of net losses from MFG Cold JV, which was formed subsequent to September 30, 2021.

Nine months ended September 30, 2022 compared with nine months ended September 30, 2021. The decrease in net income attributable to common shareholders of \$45.0 million was primarily due to the items discussed below.

The decrease in total gross revenues of \$17.4 million was primarily due to a decrease in termination income of \$13.9 million recognized during the nine months ended September 30, 2021. In addition, property sales, including the recapitalization of our special purpose industrial portfolio now owned by MFG Cold JV, contributed to the decrease, which was partially offset by revenue from recently acquired properties and an increase in advisory fees.

The increase in depreciation and amortization expense of \$4.1 million was primarily due to acquisition activity.

The increase in property operating expense of \$8.3 million was primarily due to an increase in operating expense responsibilities at certain properties.

The increase in general and administrative expenses of \$4.4 million was primarily due to an increase of \$2.6 million in costs incurred related to the Board of Trustees' strategic alternatives review and costs related to shareholder activism. The remaining \$1.8 million increase is primarily due to an increase in payroll expense, trustee fees, legal and other consulting costs.

The decrease in non-operating income of \$0.6 million was primarily due to funds received for land easements at two of our properties in 2021 with no comparable income in 2022.

The decrease in interest and amortization expense of \$2.4 million related primarily to the satisfaction of secured debt in 2021 and a \$2.8 million increase in capitalized interest mostly related to increased development. The decrease was partially offset by an increase in interest expense related to increased unsecured debt outstanding and increased interest rates on our variable-rate unsecured debt during the nine months ended September 30, 2022 compared to the September 30, 2021.

The decrease in debt satisfaction losses, net of \$13.1 million was primarily related to the redemption of the 2023 Senior Notes during the nine months ended September 30, 2021.

The decrease in gains on sales of properties of \$51.8 million was related to the timing of property dispositions.

The increase in selling profit from sales-type lease of \$9.3 million is due to a tenant exercising its purchase option resulting in a change in lease classification from an operating lease to a sales-type lease in 2022 with no comparable transaction in 2021.

The increase in equity in earnings (losses) of non-consolidated entities of \$15.8 million was primarily due to recognizing our share of gains on sale of three properties from NNN JV in 2022 in the amount of \$22.9 million with no property sales at our non-consolidated entities in 2021. The increase was primarily offset by recognizing our share of impairment charges and losses on debt satisfaction related to NNN JV in 2022 in the amount of \$4.8 million and \$1.5 million, respectively.

The decrease in net income attributable to noncontrolling interests of \$1.2 million was primarily attributable to a decrease in third-party OP unitholders and the timing of gains recognized on sales of properties by LCIF.

Same-Store Results

Same-store net operating income, or NOI, which is a non-GAAP measure, represents the NOI for consolidated properties that were owned, stabilized and included in our portfolio for two comparable reporting periods. We define NOI as operating revenues (rental income (less GAAP rent adjustments and lease termination income, net), and other property income) less property operating expenses. As same-store NOI excludes the change in NOI from acquired and disposed of properties, it highlights operating trends such as occupancy levels, rental rates and operating costs on properties. Other REITs may use different methodologies for calculating same-store NOI, and accordingly same-store NOI may not be comparable to other REITs. Management believes that same-store NOI is a useful supplemental measure of our operating performance. However, same-store NOI should not be viewed as an alternative measure of our financial performance since it does not reflect the operations of our entire portfolio, nor does it reflect the impact of general and administrative expenses, acquisition-related expenses, interest expense, depreciation and amortization costs, other nonproperty income and losses, the level of capital expenditures and leasing costs necessary to maintain the operating performance of our properties, or trends in development and construction activities which are significant economic costs and activities that could materially impact our results from operations. We believe that net income is the most directly comparable GAAP measure to same-store NOI.

The following presents our consolidated same-store NOI, for the three and nine months ended September 30, 2022 and 2021 (\$000's):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2022	2021	2022	2021
Total cash base rent	\$ 55,508	\$ 52,858	\$ 158,298	\$ 152,005
Tenant reimbursements	10,063	8,283	27,291	24,736
Property operating expenses	(11,646)	(9,317)	(32,135)	(28,060)
Same-store NOI	<u>\$ 53,925</u>	<u>\$ 51,824</u>	<u>\$ 153,454</u>	<u>\$ 148,681</u>

Our reported same-store NOI increased for the three and nine months of 2021 compared to the three and nine months of 2022 by 4.1% and 3.2%, respectively, primarily due to an increase in cash base rents. As of September 30, 2022 and 2021, our historical same-store square footage leased was 99.5% and 99.9%, respectively.

Below is a reconciliation of net income to same-store NOI for periods presented (\$000's):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2022	2021	2022	2021
Net income	\$ 23,591	\$ 7,058	\$ 76,037	\$ 122,320
Interest and amortization expense	11,255	12,210	32,758	35,170
Provision for income taxes	271	270	951	986
Depreciation and amortization	44,946	45,359	134,645	130,579
General and administrative	9,060	8,363	29,093	24,695
Transaction costs	1	64	56	205
Non-operating/advisory fee income	(1,630)	(1,265)	(4,616)	(3,239)
Gains on sales of properties	(24,841)	(16,122)	(52,951)	(104,767)
Impairment charges	628	2,048	2,457	2,048
Debt satisfaction (gains) losses, net	119	13,222	119	13,222
Selling profit from sales-type lease	—	—	(9,314)	—
Equity in (earnings) losses of non-consolidated entities	1,340	75	(15,580)	249
Lease termination income, net	(238)	(1,960)	(238)	(13,787)
Straight-line adjustments	(2,078)	(3,196)	(8,893)	(8,146)
Lease incentives	128	192	391	605
Amortization of above/below market leases	(455)	(314)	(1,416)	(1,211)
Sales-type lease interest income	13	—	—	—
NOI	62,110	66,004	183,499	198,929
Less NOI:				
Acquisitions, development and dispositions	(8,185)	(14,180)	(30,045)	(50,248)
Same-Store NOI	\$ 53,925	\$ 51,824	\$ 153,454	\$ 148,681

Funds From Operations

We believe that Funds from Operations, or FFO, which is a non-GAAP measure, is a widely recognized and appropriate measure of the performance of an equity REIT. We believe FFO is frequently used by securities analysts, investors and other interested parties in the evaluation of REITs, many of which present FFO when reporting their results. FFO is intended to exclude GAAP historical cost depreciation and amortization of real estate and related assets, which assumes that the value of real estate diminishes ratably over time. Historically, however, real estate values have risen or fallen with market conditions. As a result, FFO provides a performance measure that, when compared year over year, reflects the impact to operations from trends in occupancy rates, rental rates, operating costs, development activities, interest costs and other matters without the inclusion of depreciation and amortization, providing perspective that may not necessarily be apparent from net income.

The National Association of Real Estate Investment Trusts, or NAREIT, defines FFO as “net income (calculated in accordance with GAAP), excluding depreciation and amortization related to real estate, gains and losses from the sales of certain real estate assets, gains and losses from change in control and impairment write-downs of certain real estate assets and investments in entities when the impairment is directly attributable to decreases in the value of depreciable real estate held by the entity. The reconciling items include amounts to adjust earnings from consolidated partially-owned entities and equity in earnings of unconsolidated affiliates to FFO.” FFO does not represent cash generated from operating activities in accordance with GAAP and is not indicative of cash available to fund cash needs.

We present FFO available to common shareholders and unitholders - basic and also present FFO available to all equityholders and unitholders - diluted on a company-wide basis as if all securities that are convertible, at the holder's option, into our common shares, are converted at the beginning of the period. We also present Adjusted Company FFO available to all equityholders and unitholders - diluted which adjusts FFO available to all equityholders and unitholders - diluted for certain items which we believe are not indicative of the operating results of our real estate portfolio. We believe this is an appropriate presentation as it is frequently requested by security analysts, investors and other interested parties. Since others do not calculate these measures in a similar fashion, these measures may not be comparable to similarly titled measures as reported by others. These measures should not be considered as an alternative to net income as an indicator of our operating performance or as an alternative to cash flow as a measure of liquidity.

The following presents a reconciliation of net income attributable to common shareholders to FFO available to common shareholders and unitholders and Adjusted Company FFO available to all equityholders and unitholders for the three and nine months ended September 30, 2022 and 2021 (unaudited and dollars in thousands, except share and per share amounts):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2022	2021	2022	2021
FUNDS FROM OPERATIONS:				
Basic and Diluted:				
Net income attributable to common shareholders	\$ 21,776	\$ 5,028	\$ 70,441	\$ 115,470
Adjustments:				
Depreciation and amortization	44,227	44,652	132,600	128,442
Impairment charges - real estate, including our share of non-consolidated entities	1,256	2,048	7,299	2,048
Noncontrolling interests - OP units	11	240	147	1,391
Amortization of leasing commissions	719	707	2,045	2,137
Joint venture and noncontrolling interest adjustment	2,612	2,115	8,585	6,344
Gains on sales of properties, including our share of non-consolidated entities, net of tax	(24,842)	(16,122)	(75,803)	(104,767)
FFO available to common shareholders and unitholders - basic	45,759	38,668	145,314	151,065
Preferred dividends	1,573	1,573	4,718	4,718
Amount allocated to participating securities	41	37	151	170
FFO available to all equityholders and unitholders - diluted	47,373	40,278	150,183	155,953
Selling profit from sales-type lease ⁽¹⁾	—	—	(9,314)	—
Non-recurring costs ⁽²⁾	640	64	2,629	205
Debt satisfaction losses, net, including our share of non-consolidated entities	119	13,222	1,614	13,222
Adjusted Company FFO available to all equityholders and unitholders - diluted	\$ 48,132	\$ 53,564	\$ 145,112	\$ 169,380

Per Common Share and Unit Amounts

Basic:

FFO	\$ 0.16	\$ 0.14	\$ 0.51	\$ 0.54
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Diluted:

FFO	\$ 0.17	\$ 0.14	\$ 0.52	\$ 0.55
Adjusted Company FFO	\$ 0.17	\$ 0.19	\$ 0.50	\$ 0.59

Weighted-Average Common Shares:

Basic:

Weighted-average common shares outstanding - basic EPS	277,535,717	278,124,204	281,559,058	276,379,718
Operating partnership units ⁽³⁾	846,858	1,161,757	859,226	2,263,105
Weighted-average common shares outstanding - basic FFO	278,382,575	279,285,961	282,418,284	278,642,823

Diluted:

Weighted-average common shares outstanding - diluted EPS	278,521,946	282,048,458	284,609,950	278,581,849
Operating partnership units ⁽³⁾	—	1,161,757	—	2,263,105
Unvested share-based payment awards	—	53,320	23,175	35,645
Preferred shares - Series C	4,710,570	4,710,570	4,710,570	4,710,570
Weighted-average common shares outstanding - diluted FFO	283,232,516	287,974,105	289,343,695	285,591,169

(1) Gain recognized upon exercise of the tenant's purchase option in the lease.

(2) Includes transaction, strategic alternatives and costs related to shareholder activism.

(3) Includes all OP units other than OP units held by us.

Off-Balance Sheet Arrangements

As of September 30, 2022, we had investments in various real estate entities with varying structures. The real estate investments owned by these entities are generally financed with non-recourse debt. Non-recourse debt is generally defined as debt whereby the lenders' sole recourse with respect to borrower defaults is limited to the value of the assets collateralized by the debt. The lender generally does not have recourse against any other assets owned by the borrower or any of the members or partners of the borrower, except for certain specified exceptions listed in the particular loan documents. These exceptions generally relate to "bad boy" acts, including fraud, prohibited transfers and breaches of material representations. We have guaranteed such obligations for certain of our non-consolidated entities with respect to \$608.7 million of such non-recourse debt. We believe the likelihood of making any payments under such guaranties is remote and we generally have an agreement from each partner to reimburse us for its proportionate share of any liability related to a guarantee trigger unless such trigger is caused solely by us.

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

Our exposure to market risk relates primarily to our variable-rate indebtedness not subject to interest rate swaps and our fixed-rate debt. Our consolidated aggregate principal variable-rate indebtedness not subject to interest rate swaps was \$259.1 million and \$129.1 million at each of September 30, 2022 and 2021, which represented 15.9% and 8.4%, respectively, of our aggregate principal consolidated indebtedness. During the three months ended September 30, 2022 and 2021, our variable-rate indebtedness had a weighted-average interest rate of 3.5% and 1.4%, respectively. Had the weighted-average interest rate been 100 basis points higher, our interest expense for the three months ended September 30, 2022 and 2021 would have increased by \$0.6 million in each period. During the nine months ended September 30, 2022 and 2021, our weighted-average variable-rate interest rate was 2.7% and 1.7%, respectively. Had the weighted-average interest rate been 100 basis points higher, our interest expense for the nine months ended September 30, 2022 and 2021 would have increased by \$1.5 million and \$1.3 million, respectively. At each of September 30, 2022 and 2021, our aggregate principal consolidated fixed-rate debt was \$1.4 billion, which represented 84.1% and 91.6%, respectively, of our aggregate principal indebtedness.

For certain of our financial instruments, fair values are not readily available since there are no active trading markets as characterized by current exchanges between willing parties. Accordingly, we derive or estimate fair values using various valuation techniques, such as computing the present value of estimated future cash flows using discount rates commensurate with the risks involved. However, the determination of estimated cash flows may be subjective and imprecise. Changes in assumptions or estimation methodologies can have a material effect on these estimated fair values, especially given the volatility of the current economic environment. The following fair value was determined using the interest rates that we believe our outstanding fixed-rate indebtedness would warrant as of September 30, 2022. We believe the fair value is indicative of the interest rate environment as of September 30, 2022, but this amount does not take into consideration the effects of subsequent interest rate fluctuations. Accordingly, we estimate that the fair value of our fixed-rate indebtedness was \$1.2 billion as of September 30, 2022.

Our interest rate risk objectives are to limit the impact of interest rate fluctuations on earnings and cash flows and to lower our overall borrowing costs. To achieve these objectives, we manage our exposure to fluctuations in market interest rates through the use of fixed-rate debt instruments to the extent that reasonably favorable rates are obtainable with such arrangements. We may enter into derivative financial instruments such as interest rate swaps or caps to mitigate our interest rate risk on a related financial instrument or to effectively lock the interest rate on a portion of our variable-rate debt. As of September 30, 2022, we had four interest rate swap agreements (see note 8 to our unaudited condensed consolidated financial statements contained in this Quarterly Report).

ITEM 4. CONTROLS AND PROCEDURES

Evaluation of Disclosure Controls and Procedures. Our management, with the participation of our Chief Executive Officer and Chief Financial Officer, evaluated the effectiveness of our disclosure controls and procedures (as such terms are defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act) as of the end of the period covered by this Quarterly Report to determine if such controls and procedures were effective to ensure that information required to be disclosed by us in reports filed or submitted under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms and that information required to be disclosed by us in reports filed or submitted under the Exchange Act is accumulated and communicated to our management, including our Chief Executive Officer and Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosure. Management, including each of our Chief Executive Officer and Chief Financial Officer, has concluded that our disclosure controls and procedures were effective as of September 30, 2022.

Changes in Internal Control Over Financial Reporting. There were no changes in our internal control over financial reporting (as such term is defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act) during the fiscal quarter to which this Quarterly Report relates that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

Limitations on the Effectiveness of Controls. Internal control over financial reporting cannot provide absolute assurance of achieving financial reporting objectives because of its inherent limitations. Internal control over financial reporting is a process that involves human diligence and compliance and is subject to lapses in judgment and breakdowns resulting from human failures. Internal control over financial reporting also can be circumvented by collusion or improper management override. Because of such limitations, there is a risk that material misstatements may not be prevented or detected on a timely basis by internal control over financial reporting. However, these inherent limitations are known features of the financial reporting process. Therefore, it is possible to design into the process safeguards to reduce, though not eliminate, this risk.

PART II - OTHER INFORMATION

ITEM 1. Legal Proceedings.

From time to time, we are directly and indirectly involved in legal proceedings arising in the ordinary course of our business, including claims by lenders under non-recourse carve-out guarantees. We believe, based on currently available information, and after consultation with legal counsel, that although the outcomes of those normal course proceedings are uncertain, the results of such proceedings, in the aggregate, will not have a material adverse effect on our business, financial condition and results of operations.

ITEM 1A. Risk Factors.

There have been no material changes in our risk factors from those disclosed in the Annual Report other than the following:

Recent inflationary pressures could result in higher interest rates, which would have a negative impact on our business.

Rising inflation and elevated U.S. budget deficits and overall debt levels, including as a result of federal pandemic relief and stimulus legislation and/or economic or market and supply chain conditions, can put upward pressure on interest rates and could be among the factors that could lead to higher interest rates in the future. Higher interest rates could adversely affect our overall business, income, and our ability to pay dividends, including by reducing the fair value of many of our assets and adversely affecting our ability to obtain financing on favorable terms or at all, and negatively impacting the value of properties and the ability of prospective buyers to obtain financing for properties we intend to sell. This may affect our earnings results, reduce our ability to sell our assets, or reduce our liquidity. Furthermore, our business and financial results may be harmed by our inability to accurately anticipate developments associated with changes in, or the outlook for, interest rates.

Disruptions in the financial markets and uncertain economic conditions could adversely affect the value of our real estate investments.

Disruptions in the financial markets could adversely affect the value of our real estate investments. Concerns over economic recession, the COVID-19 pandemic, interest rate increases, policy priorities of the U.S. presidential administration, trade wars, labor shortages, or inflation may contribute to increased volatility and diminished expectations for the economy and markets. Additionally, concern over geopolitical issues may also contribute to prolonged market volatility and instability. For example, the conflict between Russia and Ukraine has led to disruption, instability and volatility in global markets and industries. The U.S. government and other governments in jurisdictions have imposed severe economic sanctions, export controls and other against Russia and Russian interests, and have threatened additional sanctions and controls. The full impact of these measures, as well as potential responses to them by Russia, is unknown. Such conditions could impact real estate fundamentals and result in lower occupancy, lower rental rates, and declining values in our real estate portfolio and in the real estate collateral securing any indebtedness. As a result, the value of our property investments could decrease below the amounts paid for such investments, the value of real estate collateral securing any indebtedness could decrease below the outstanding principal amounts of such indebtedness, and revenues from our properties could decrease due to fewer and/or delinquent tenants or lower rental rates. This could significantly harm our revenues, results of operations, financial condition, business prospects and our ability to make distributions to our shareholders.

The LIBOR index rate may not be available in the future.

In July 2017, the Financial Conduct Authority (the authority that regulates LIBOR) announced it intends to stop compelling banks to submit rates for the calculation of LIBOR after 2021. On March 5, 2021, the Financial Conduct Authority further announced that it intends to stop compelling banks to submit rates for the calculation of one, three and six month LIBOR after June 30, 2023. It is unclear whether new methods of calculating such LIBOR periods will be established such that they continue to exist after June 30, 2023. It is not possible to predict the effect of these changes, other reforms or the establishment of alternative reference rates in the United States or elsewhere. The Alternative Reference Rates Committee (or ARRC) has proposed that the Secured Overnight Financing Rate (or SOFR) is the rate that represents best practice as the alternative to USD-LIBOR for use in derivatives and other financial contracts that are currently indexed to USD-LIBOR. ARRC has proposed a paced market transition plan to SOFR from USD-LIBOR and organizations are currently working on industry wide and company specific transition plans as it relates to derivatives and cash markets exposed to USD-LIBOR. Our trust preferred securities do not provide for a clear alternative to USD-LIBOR.

The transition from LIBOR to an alternative reference rate could result in higher all-in interest costs and could hinder our ability to maintain effective hedges, which could impact our financial performance. Further, the impact or potential impact of LIBOR transition could incentivize us to prepay debt and/or unwind hedge positions earlier than we anticipated when closing the debt facility and/or entering into the hedge position. If we prepay debt, we may owe prepayment penalties or other breakage costs. If we unwind hedge positions, we could owe unwind payments to our counterparties, which could be significant.

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

The following table summarizes repurchases of our common shares/OP units during the three months ended September 30, 2022 pursuant to publicly announced repurchase plans ⁽¹⁾:

Period	(a) Total Number of Shares/Units Purchased	(b) Average Price Paid for Share/Unit	(c) Total Number of Shares/Units Purchased as Part of Publicly Announced Plans or Programs ⁽¹⁾	(d) Maximum Number of Shares/Units That May Yet Be Purchased Under the Plans or Programs ⁽¹⁾
July 1 - 31, 2022	1,800,000	\$ 10.65	1,800,000	1,078,289
August 1 - 31, 2022	615,641	\$ 10.59	615,641	10,462,648
September 1 - 30, 2022 ⁽²⁾	3,188,407	\$ 9.80	3,188,407	7,274,241
Third quarter 2022	5,604,048	\$ 10.16	5,604,048	7,274,241

(1) Share repurchase authorization of an additional 10.0 million common shares announced on August 4, 2022, which has no expiration date.

(2) Excludes 400,000 common shares that were purchased in September 2022 that were settled in October 2022.

ITEM 3. Defaults Upon Senior Securities - not applicable.

ITEM 4. Mine Safety Disclosures - not applicable.

ITEM 5. Other Information.

Effective November 2, 2022, our Board of Trustees adopted the Second Amended and Restated By-laws of LXP Industrial Trust, which amended and restated our Amended and Restated By-laws. Among other things, the Second and Amended Restated By-laws:

- Enhance the procedural mechanics and disclosure requirements in connection with shareholder nominations of trustees and submissions of proposals regarding other business at shareholder meetings (other than nominations pursuant to the existing proxy access provision in Section 1.13 of the Second Amended and Restated By-laws and proposals to be included in the our proxy materials pursuant to Rule 14a-8 under the Exchange Act) or by means of written or electronic consent, including by requiring:
 - additional background information and disclosures regarding proposing shareholders, the proposed nominees and business, and certain related parties pertaining to a shareholder's solicitation of proxies, including additional disclosures with respect to the nature of the interests held by such persons in us and other potentially interested parties, and the existence of agreements, arrangements or understandings with third parties that may be material to the shareholder's solicitation of proxies;
 - any shareholder submitting a nomination notice make an undertaking to solicit proxies from holders of at least 67% of the voting power of all of our shares of beneficial interest entitled to vote generally in the election of trustees;
 - compliance with the requirements of Regulation 14A under the Exchange Act (including the newly effective "universal proxy rules") in order for shareholder nominations and proposals for other business to be deemed properly given under the Second Amended and Restated By-laws; and
 - any nominee proposed by a shareholder deliver a written questionnaire with respect to the nominee's background and qualification and a written certification representing that the nominee is not and will not become party to any commitment with any third party with respect to the nominee's actions as a trustee, or which could limit or interfere with the nominee's ability to comply with their fiduciary duties.
- Provide that any shareholder soliciting proxies from other shareholder must use a proxy card color other than white;
- Remove the requirement to provide a list of all shareholders entitled to vote at meetings of shareholders; and
- Make various other updates, including ministerial, clarifying and conforming changes and changes in furtherance of gender neutrality.

This description of the Second Amended and Restated By-laws is qualified in its entirety by reference to the complete text of the Second Amended and Restated By-laws, a copy of which is filed herewith as Exhibit 3.6 and incorporated herein by reference.

ITEM 6. Exhibits.

Exhibit No.	Description
3.1	— Articles of Merger and Amended and Restated Declaration of Trust of the Company, dated December 31, 2006 (filed as Exhibit 3.1 to the Company’s Current Report on Form 8-K filed January 8, 2007 (the “01/08/07 8-K”))(1).
3.2	— Articles Supplementary Relating to the Reclassification of 8.05% Series B Cumulative Redeemable Preferred Stock, par value \$0.0001 per share, and 7.55% Series D Cumulative Redeemable Preferred Stock, par value \$0.0001 per share (filed as Exhibit 3.4 to the Company's Current Report on Form 8-K filed November 21, 2013)(1).
3.3	— Articles of Amendment to the Amended and Restated Declaration of Trust, dated as of December 14, 2021 (filed as Exhibit 3.1 to the Company's Current Report on Form 8-K filed on December 16, 2021)(1).
3.4	— Articles of Amendment to the Amended and Restated Declaration of Trust, dated as of May 26, 2022 (filed as Exhibit 3.1 to the Company's Current Report on Form 8-K filed on May 27, 2022)(1).
3.5	— Amended and Restated By-laws of the Company (filed as Exhibit 3.2 to the 01/08/07 8-K)(1).
3.6	— Second Amended and Restated By-laws of the Company (2).
3.7	— Sixth Amended and Restated Agreement of Limited Partnership of LCIF, dated as of December 30, 2013 (filed as Exhibit 3.25 to the Company's Annual Report on Form 10-K filed February 26, 2014)(1).
3.8	— First Amendment to Sixth Amended and Restated Agreement of Limited Partnership of LCIF, dated as of July 12, 2021 (filed as Exhibit 3.1 to the Company's Current Report on Form 8-K filed July 16, 2021)(1).
4.1	— Specimen of Common Shares Certificate of the Company (filed as Exhibit 4.1 to the Company’s Annual Report on Form 10-K for the year ended December 31, 2021)(1).
4.2	— Form of 6.50% Series C Cumulative Convertible Preferred Stock certificate (filed as Exhibit 4.1 to the Company's Registration Statement on Form 8A filed December 8, 2004)(1).
4.3	— Indenture, dated as of January 29, 2007, among the Company (as successor by merger), the other guarantors named therein and U.S. Bank National Association, as trustee (filed as Exhibit 4.1 to the Company’s Current Report on Form 8-K filed January 29, 2007 (the “01/29/07 8-K”))(1).
4.4	— Amended and Restated Trust Agreement, dated March 21, 2007, among the Company, The Bank of New York Trust Company, National Association, The Bank of New York (Delaware), the Administrative Trustees (as named therein) and the several holders of the Preferred Securities from time to time (filed as Exhibit 4.1 to the Company’s Current Report on Form 8-K filed March 27, 2007 (the “03/27/2007 8-K”))(1).
4.5	— Junior Subordinated Indenture, dated as of March 21, 2007, between Lexington Realty Trust and The Bank of New York Trust Company, National Association (filed as Exhibit 4.2 to the 03/27/07 8-K)(1).
4.6	— Fourth Supplemental Indenture, dated as of December 31, 2008, among the Company, the other guarantors named therein and U.S. Bank National Association, as trustee (filed as Exhibit 4.1 to the Company’s Current Report on Form 8-K filed January 2, 2009)(1).
4.7	— Fifth Supplemental Indenture, dated as of June 9, 2009, among the Company (as successor to the MLP), the other guarantors named therein and U.S. Bank National Association, as trustee (filed as Exhibit 4.1 to the Company's Current Report on Form 8-K filed June 15, 2009)(1).
4.8	— Sixth Supplemental Indenture, dated as of January 26, 2010 among the Company, the guarantors named therein and U.S. Bank National Association, as trustee, including the Form of 6.00% Convertible Guaranteed Notes due 2030 (filed as Exhibit 4.1 to the Company’s Current Report on Form 8-K filed January 26, 2010)(1).
4.9	— Seventh Supplemental Indenture, dated as of September 28, 2012, among the Company, certain subsidiaries of the Company signatories thereto, and U.S. Bank National Association, as trustee (filed as Exhibit 4.1 to the Company's Current Report on Form 8-K filed October 3, 2012)(1).

4.10	—	Eighth Supplemental Indenture, dated as of February 13, 2013, among the Company, certain subsidiaries of the Company signatories thereto, and U.S. Bank National Association, as trustee (filed as Exhibit 4.1 to the Company's Current Report on Form 8-K filed February 13, 2013 (the "02/13/13 8-K"))(1)
4.11	—	Ninth Supplemental Indenture, dated as of May 6, 2013, among the Company, certain subsidiaries of the Company signatories thereto, and U.S. Bank National Association, as trustee (filed as Exhibit 4.1 to the Company's Current Report on Form 8-K filed May 8, 2013)(1)
4.12	—	Tenth Supplemental Indenture, dated as of June 13, 2013, among the Company, certain subsidiaries of the Company signatories thereto, and U.S. Bank National Association, as trustee (filed as Exhibit 4.3 to the Company's Current Report on Form 8-K filed on June 13, 2013 (the "06/13/13 8-K"))(1)
4.13	—	Tenth Supplemental Indenture, dated as of September 30, 2013, among the Company, certain subsidiaries of the Company signatories thereto, and U.S. Bank National Association, as trustee (filed as Exhibit 4.1 to the Company's Current Report on Form 8-K filed on October 3, 2013 (the "10/03/2013 8-K"))(1)
4.14	—	Indenture, dated as of June 10, 2013, among the Company, the subsidiary guarantors named therein, and U.S. Bank National Association, as trustee (filed as Exhibit 4.1 to the 06/13/2013 8-K))(1)
4.15	—	First Supplemental Indenture, dated as of September 30, 2013, among the Company, the subsidiary guarantors named therein, and U.S. Bank National Association, as trustee (filed as Exhibit 4.2 to the 10/03/2013 8-K))(1)
4.16	—	Indenture dated as of May 9, 2014, among the Company, LCIF and U.S. Bank National Association, as trustee (filed as Exhibit 4.1 to the Company's Current Report on Form 8-K filed May 13, 2014)(1)
4.17	—	First Supplemental Indenture, dated as of May 20, 2014, among the Company, LCIF and U.S. Bank National Association, as trustee (filed as Exhibit 4.1 to the Company's Current Report on Form 8-K filed May 20, 2014)(1)
4.18	—	Second Supplemental Indenture, dated as of August 28, 2020, among the Company and U.S. Bank National Association, as trustee (filed as Exhibit 4.1 to the Company's Current Report on Form 8-K filed August 28, 2020)(1)
4.19	—	Third Supplemental Indenture, dated as of August 30, 2021, among the Company and U.S. Bank National Association, as trustee (filed as Exhibit 4.1 to the Company's Current Report on Form 8-K filed August 30, 2021)(1)
10.1	—	Second Amended and Restated Credit Agreement, dated as of July 5, 2022, among the Company, as borrower, each of the financial institutions initially a signatory thereto together with their assignees pursuant to Section 12.5 therein, and KeyBank National Association, as agent (filed as Exhibit 10.1 to the Company's Current Report on Form 8-K filed on July 11, 2022)(1)
31.1	—	Certification pursuant to Rule 13a-14(a)/15d-14(a) of the Securities Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002(2)
31.2	—	Certification pursuant to Rule 13a-14(a)/15d-14(a) of the Securities Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002(2)
32.1	—	Certification pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002(3)
32.2	—	Certification pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002(3)
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 (2, 5)
101.SCH	—	Inline XBRL Taxonomy Extension Schema (2, 5)
101.CAL	—	Inline XBRL Taxonomy Extension Calculation Linkbase (2, 5)
101.DEF	—	Inline XBRL Taxonomy Extension Definition Linkbase Document (2, 5)
101.LAB	—	Inline XBRL Taxonomy Extension Label Linkbase Document (2, 5)
101.PRE	—	Inline XBRL Taxonomy Extension Presentation Linkbase Document (2, 5)

- (1) Incorporated by reference.
- (2) Filed herewith.
- (3) Furnished herewith. This exhibit shall not be deemed "filed" for purposes of Section 11 or 12 of the Securities Act of 1933, as amended (the "Securities Act"), or Section 18 of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), or otherwise subject to the liabilities of those sections, and shall not be part of any registration statement to which it may relate, and shall not be incorporated by reference into any registration statement or other document filed under the Securities Act or the Exchange Act, except as set forth by specific reference in such filing or document.
- (4) Management contract or compensatory plan or arrangement.
- (5) The following materials from this Quarterly Report on Form 10-Q for the period ended September 30, 2022 are formatted in Inline XBRL (Extensible Business Reporting Language): (i) Unaudited Condensed Consolidated Balance Sheets of the Company; (ii) Unaudited Condensed Consolidated Statements of Operations of the Company; (iii) Unaudited Condensed Consolidated Statements of Comprehensive Income (Loss) of the Company; (iv) Unaudited Condensed Consolidated Statements of Changes in Equity of the Company; (v) Unaudited Condensed Consolidated Statements of Cash Flows of the Company; and (vi) Notes to Unaudited Condensed Consolidated Financial Statements of the Company, detailed tagged.

SIGNATURES

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

LXP Industrial Trust

Date: November 3, 2022

By: /s/ T. Wilson Eglin

T. Wilson Eglin

Chief Executive Officer and President

(principal executive officer)

Date: November 3, 2022

By: /s/ Beth Boulerice

Beth Boulerice

Chief Financial Officer, Executive Vice President and Treasurer

(principal financial officer)

LXP INDUSTRIAL TRUST
SECOND AMENDED AND RESTATED BY-LAWS

ARTICLE I.
SHAREHOLDERS

SECTION 1.01. Annual Meeting. The Company shall hold an annual meeting of its shareholders to elect trustees and transact any other business within its powers on the date and at the time and place, or by means of remote communication, set by the Board of Trustees. Except as the Declaration of Trust or statute provides otherwise, any business may be considered at an annual meeting without the purpose of the meeting having been specified in the notice. Failure to hold an annual meeting does not invalidate the Company's existence or affect any otherwise valid corporate acts. In lieu of holding a shareholders' meeting at a designated physical place, the Board of Trustees, in its sole discretion, may determine that any shareholders' meeting may be held solely or partially by means of remote communication and have the Company make appropriate arrangements to the fullest extent permitted by applicable law in connection therewith, including without limitation as to format, procedures, access, meeting communication and notices, arrangements with respect to accessing the list of shareholders entitled to vote at said meeting and such other matters as may be relevant with respect to such a meeting, notwithstanding any other provision set forth in these By-Laws.

SECTION 1.02. Special Meeting.

(a) General. A special meeting of the shareholders may be called by the Chairperson of the Board of Trustees or the President or by a majority of the Board of Trustees by vote at a meeting or in writing (addressed to the Secretary of the Company) with or without a meeting. Subject to subsection (b) of this Section 1.02, a special meeting of shareholders shall also be called by the Secretary of the Company to act on any matter that may properly be considered at a meeting of shareholders upon the written request of shareholders entitled to cast not less than 25% of all the votes entitled to be cast on such matter at such meeting. Unless requested by the shareholders entitled to cast a majority of all the votes entitled to be cast at such meeting, a special meeting need not be called to consider any matter which is substantially the same as a matter voted on at any special meeting of shareholders held during the preceding twelve months.

(b) Shareholder-Requested Special Meetings.

(i) Any shareholder of record (the "Record Shareholder") seeking to have shareholders request a special meeting shall, by sending written notice to the Secretary (the "Record Date Request Notice") by registered mail, return receipt requested, request the Board of Trustees to fix a record date to determine the shareholders entitled to request a special meeting (the "Request Record Date"). The Record Date Request Notice (1) shall set forth the purpose of the meeting and the matters proposed to be acted on at it, (2) shall be signed by one or more shareholders of record as of the date of signature (or their agents duly authorized in a writing accompanying the Record Date Request Notice), (3) shall bear the date of signature of each such Record Shareholder (or such agent), (4) shall set forth all other information required to be disclosed by such Record Shareholder and any other Covered Person if such Record Shareholder were submitting a shareholder proposal at an annual meeting of shareholders of the Company pursuant to Section 1.11, including, with respect to any proposal relating to the nomination of a trustee to the Board of Trustees or any other proposal for business contemplated to be proposed by such Record Shareholder to be acted on at the special meeting, any information that would be required to be disclosed with respect to such nomination or other proposal of business, as applicable, if it were presented in connection with an annual meeting and (5) shall set forth all information relating to each such Record Shareholder, each individual whom the Record Shareholder proposes to nominate for election or reelection as a trustee and each matter proposed to be acted on at the meeting that would be required to be disclosed in connection with the solicitation of proxies for the election of trustees, or the election of each such individual, as applicable, in an election contest (even if an election contest is not involved), or would otherwise be required in connection with such a solicitation, in each case pursuant to Regulation 14A (or any successor provision) under the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder (the "Exchange Act"). Upon receiving the Record Date Request Notice, the Board of Trustees may fix a Request Record Date. The Request Record Date shall not precede and shall not be more than ten days after the close of business on the date on which the resolution fixing the Request Record Date is adopted by the Board of Trustees. If the Board of Trustees, within ten days after

the date on which a valid Record Date Request Notice is received, fails to adopt a resolution fixing the Request Record Date, the Request Record Date shall be the close of business on the tenth day after the first date on which a Record Date Request Notice is received by the Secretary.

(ii) In order for a Record Shareholder to request a special meeting to act on any matter that may properly be considered at a meeting of shareholders, one or more written requests for a special meeting (collectively, the “Special Meeting Request”) signed by Record Shareholders (or their agents duly authorized in a writing accompanying the request) as of the Request Record Date entitled to cast not less than 25% of all of the votes entitled to be cast on such matter at such meeting (the “Special Meeting Percentage”) shall be delivered to the Secretary. In addition, the Special Meeting Request shall (a) set forth the purpose of the meeting and the matters proposed to be acted on at it (which shall be limited to those lawful matters set forth in the Record Date Request Notice received by the Secretary), (b) bear the date of signature of each such Record Shareholder (or such agent) signing the Special Meeting Request, (c) set forth (i) the name and address, as they appear in the Company’s books, of each Record Shareholder signing such request (or on whose behalf the Special Meeting Request is signed), (ii) the class, series and number of all shares of beneficial interest of the Company which are owned (beneficially or of record) by each Record Shareholder and (iii) the nominee holder for, and number of, shares of beneficial interest of the Company owned beneficially but not of record by such Record Shareholder, (d) be sent to the Secretary by registered mail, return receipt requested, and (e) be received by the Secretary within 60 days after the Request Record Date. Any requesting shareholder (or agent duly authorized in a writing accompanying the revocation of the Special Meeting Request) may revoke their request for a special meeting at any time by written revocation delivered to the Secretary.

(iii) The Secretary shall inform the Record Shareholders of the reasonably estimated cost of preparing and mailing or delivering the notice of the meeting (including the Company’s proxy materials). The Secretary shall not be required to call a special meeting upon Record Shareholder request and such meeting shall not be held unless, in addition to the documents required by paragraph (2) of this Section 1.02(b), the Secretary receives payment such Record Shareholders of such reasonably estimated cost prior to the preparation and mailing or delivery of such notice of the meeting.

(iv) In the case of any special meeting called by the Secretary upon the request of Record Shareholders (a “Shareholder-Requested Meeting”), such meeting shall be held at such place, date and time as may be designated by the Board of Trustees; provided, however, that the date of any Shareholder-Requested Meeting shall be not more than 90 days after the record date for such meeting (the “Meeting Record Date”); and provided further that if the Board of Trustees fails to designate, within ten days after the date that a valid Special Meeting Request is actually received by the Secretary (the “Delivery Date”), a date and time for a Shareholder-Requested Meeting, then such meeting shall be held at 2:00 p.m., local time, on the 90th day after the Meeting Record Date or, if such 90th day is not a Business Day (as defined below), on the first preceding Business Day; and provided further that in the event that the Board of Trustees fails to designate a place or provide means of remote communication for a Shareholder-Requested Meeting within ten days after the Delivery Date, then such meeting shall be held at the principal executive office of the Company. In fixing a date for a Shareholder-Requested Meeting, the Board of Trustees may consider such factors as it deems relevant, including, without limitation, the nature of the matters to be considered, the facts and circumstances surrounding any request for the meeting and any plan of the Board of Trustees to call an annual meeting or a special meeting. In the case of any Shareholder-Requested Meeting, if the Board of Trustees fails to fix a Meeting Record Date that is a date within 30 days after the Delivery Date, then the close of business on the 30th day after the Delivery Date shall be the Meeting Record Date. The Board of Trustees may revoke the notice for any Shareholder-Requested Meeting in the event that the Record Shareholders fail to comply with the provisions of paragraph (ii) of this Section 1.02(b).

(v) If written revocations of the Special Meeting Request have been delivered to the Secretary and the result is that Record Shareholders (or their agents duly authorized in writing), as of the Request Record Date, entitled to cast less than the Special Meeting Percentage have delivered, and not revoked, requests for a special meeting on the matter to the Secretary: (i) if the notice of meeting has not already been delivered, the Secretary shall refrain from delivering the notice of the meeting and send to all requesting shareholders who have not revoked such requests written notice of any revocation of a request for a special meeting on the matter, or (ii) if the notice of meeting has been delivered and if the Secretary first sends to all requesting shareholders who have not revoked requests for a special meeting on the matter written notice of any revocation of a request for the special meeting and written notice of the Company’s intention to revoke the notice of the meeting or for the chairperson of the

meeting to adjourn the meeting without action on the matter, (A) the Secretary may revoke the notice of the meeting at any time before ten days before the commencement of the meeting or (B) the chairperson of the meeting may call the meeting to order and adjourn the meeting from time to time without acting on the matter. Any request for a special meeting received after a revocation by the Secretary of a notice of a meeting shall be considered a request for a new special meeting.

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

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

SECTION 1.03. Place of Meetings. Meetings of shareholders shall be held at such place, or by means of remote communication, as is set from time to time by the Board of Trustees.

SECTION 1.04. Notice of Meetings; Waiver of Notice. Not less than ten nor more than 90 days before each shareholders' meeting, the Secretary shall give written notice of the meeting to each shareholder entitled to vote at the meeting and each other shareholder entitled to notice of the meeting. The notice shall state the time and place of the meeting and, if the meeting is a special meeting or notice of the purpose is required by statute, the purpose of the meeting. Notice is given to a shareholder when it is personally delivered to them, left at their residence or usual place of business, or mailed to them at their address as it appears on the records of the Company. Notwithstanding the foregoing provisions, each person who is entitled to notice waives notice if they, before or after the meeting, signs a waiver of the notice which is filed with the records of shareholders' meetings, or is present at the meeting in person or by proxy.

SECTION 1.05. Quorum; Voting.

(a) Quorum. Unless the statute or the Declaration of Trust provides otherwise, at a meeting of shareholders the presence in person or by proxy of shareholders entitled to cast a majority of all the votes entitled to be cast at the meeting constitutes a quorum.

(b) Election of Trustees. Unless the statute or the Declaration of Trust provides otherwise, each trustee shall be elected by the vote of a majority of the votes cast by shareholders entitled to vote with respect to the election of trustees at a meeting duly called at which a quorum is present; provided that if the number of nominees exceeds the number of trustees to be elected, the trustees shall be elected by the vote of a plurality of the votes cast by shareholders entitled to vote with respect to the election of trustees at a meeting duly called at which a quorum is present. For purposes of this Section, a majority of the votes cast means that the number of shares voted "for" a nominee must exceed the number of votes cast "against" or "withheld" with respect to that nominee. Votes "against" or "withheld" with respect to a nominee will count as votes cast with respect to that nominee, but "abstentions" and broker non-votes with respect to that nominee will not count as votes cast with respect to that nominee. If a nominee that is already serving as a trustee is not elected, such trustee shall offer to tender their resignation to the Board of Trustees. The Nominating and Corporate Governance Committee of the Board of Trustees will make a recommendation to the Board of Trustees on whether to accept or reject the resignation, or whether other action should be taken. The Board of Trustees will act on the Nominating and Corporate Governance Committee's recommendation and publicly disclose its decision and the rationale behind it within 90 days from the date of the certification of the election results. The trustee who tenders their resignation will not participate in the Board of Trustees' decision. Each trustee shall hold office until their successor shall be

duly elected and qualified, or until death, resignation or removal in the manner hereinafter provided, or until they shall cease to qualify.

(c) Matters other than Election of Trustees. A majority of the votes cast at a meeting of shareholders duly called and at which a quorum is present shall be sufficient to approve any other matter which may properly come before the meeting, unless more than a majority of the votes cast is required by statute or by the Declaration of Trust.

SECTION 1.06. Adjournments. Whether or not a quorum is present, a meeting of shareholders convened on the date for which it was called may be adjourned from time to time without further notice to a date not more than 120 days after the original record date. Any business which might have been transacted at the meeting as originally notified may be deferred and transacted at any such adjourned meeting at which a quorum shall be present.

SECTION 1.07. General Right to Vote; Proxies. Unless the Declaration of Trust provides for a greater or lesser number of votes per share or limits or denies voting rights, each outstanding share of beneficial interest, regardless of class, is entitled to one vote on each matter submitted to a vote at a meeting of shareholders. In all elections for trustees, each share of beneficial interest may be voted for as many individuals as there are trustees to be elected and for whose election the share is entitled to be voted. A shareholder may vote the beneficial interest they own of record either in person or by written proxy signed by the shareholder or by their duly authorized attorney in fact. Unless a proxy provides otherwise, it is not valid more than 11 months after its date.

SECTION 1.08. Intentionally omitted.

SECTION 1.09. Conduct of Business and Voting. At all meetings of shareholders, unless the voting is conducted by an inspector, the proxies and ballots shall be received, and all questions touching the qualification of voters and the validity of proxies, the acceptance or rejection of votes and procedures for the conduct of business not otherwise specified by these By-Laws, the Declaration of Trust or law, shall be decided or determined by the chairperson of the meeting. If demanded by shareholders, present in person or by proxy, entitled to cast 10% in number of votes entitled to be cast, or if ordered by the chairperson of the meeting, the vote upon any election or question shall be taken by ballot and, upon like demand or order, the voting shall be conducted by an inspector, in which event the proxies and ballots shall be received, and all questions touching the qualification of voters and the validity of proxies and the acceptance or rejection of votes shall be decided, by such inspector. Unless so demanded or ordered, no vote need be by ballot and voting need not be conducted by an inspector. The shareholders at any meeting may choose an inspector to act at such meeting, and in default of such election, the chairperson of the meeting may appoint an inspector. No candidate for election as trustee at a meeting shall serve as an inspector thereat.

SECTION 1.10. Informal Action by Shareholders.

(a) Any action required or permitted to be taken at any meeting of shareholders may be taken without a meeting if a consent in writing or by electronic transmission of Record Shareholders entitled to cast not less than the minimum number of votes that would be necessary to authorize or take the action at a meeting of shareholders at which all shares entitled to be voted were present and voted is delivered to the Company in accordance with the Maryland REIT Law and this Section 1.10. The Company shall give notice of any action taken by less than unanimous consent to each shareholder not later than ten days after the effective time of such action.

(b) Any Record Shareholder seeking to have shareholders act by written or electronic consent shall, by sending written notice to the Secretary of the Company (the "Consent Record Date Request Notice") by registered mail, return receipt requested, request the Board of Trustees to set a record date to determine the shareholders entitled to act by written or electronic consent (the "Consent Request Record Date"). The Consent Record Date Request Notice shall (i) set forth the matters proposed to be acted on by written or electronic consent (including the text of any resolutions to be adopted by written or electronic consent), (ii) be signed by one or more Record Shareholders as of the date of signature (or their agents duly authorized in a writing accompanying the Consent Record Date Request Notice), (iii) bear the date of signature of each such Record Shareholder (or such agent), (iv) set forth, with regard to each shareholder signing the Consent Record Date Request Notice, such Record Shareholder's name, address, the number of shares of beneficial interest of each class and series of the Company held

beneficially and of record by such Record Shareholders and such Record Shareholder's reason or reasons for requesting that such action be taken by written or electronic consent and (v) set forth all other information required to be disclosed by such Record Shareholder and any other Covered Person if such Record Shareholder were submitting a shareholder proposal at an annual meeting of shareholders of the Company pursuant to Section 1.11, including, with respect to any proposal relating to the nomination of a trustee to the Board of Trustees or any other proposal for business contemplated to be proposed by such Record Shareholder to be acted on by written or electronic consent, any information that would be required to be disclosed with respect to such nomination or other proposal of business, as applicable, if it were presented in connection with an annual meeting. In connection with an action proposed to be taken by written or electronic consent in accordance with this Section 1.10, shareholders seeking such action shall further update and supplement the information previously provided to the Company in connection therewith, if necessary, to ensure that such information remains accurate and current. Upon receiving the Consent Record Date Request Notice, the Board of Trustees may set a Consent Request Record Date. The Consent Request Record Date shall not precede and shall not be more than 10 days after the close of business on the date on which the resolution fixing the Consent Request Record Date is adopted by the Board of Trustees. If the Board of Trustees, within 10 days after the date on which a valid Consent Record Date Request Notice is received, fails to adopt a resolution fixing the Consent Request Record Date, the Consent Request Record Date shall be the close of business on the 10th day after the first date on which a Consent Record Date Request Notice is received by the Secretary of the Company.

(c) No written or electronic consent shall be effective unless a Consent Request Record Date is set in accordance with this Section 1.10 and reasonable best efforts are undertaken to solicit all shareholders as of such Consent Request Record Date by the shareholder or shareholders who sent the Consent Record Date Request Notice to the Secretary of the Company. Unless a shorter period is set by the Board of Trustees, no written or electronic consent shall be effective until the later of (i) the close of business on the 30th day after such consent is delivered to the Company, which delivery may not be prior to the 30th day after the Consent Request Record Date, or (ii) the effective time of such written or electronic consent as set forth therein.

SECTION 1.11. Shareholder Proposals. Nominations of individuals for election to the Board of Trustees and the proposal of other business to be considered by the shareholders may be made at an annual meeting of shareholders (i) pursuant to the Company's notice of meeting, (ii) by or at the direction of the Board of Trustees or (iii) by any shareholder of the Company who was a shareholder of record at the time of giving of notice by the shareholder as provided for in this Section 1.11, at the record date set by the Board of Trustees for the purpose of determining shareholders entitled to vote at the annual meeting, and at the time of the annual meeting (and any postponement or adjournment thereof), who is entitled to vote at the meeting in the election of each individual so nominated or on any such other business and who has complied with this Section 1.11. For any shareholder proposal to be presented in connection with an annual meeting of shareholders of the Company, including any proposal relating to the nomination of a trustee to be elected to the Board of Trustees of the Company, (i) the Record Shareholders must have given timely notice thereof in writing to the Secretary of the Company, (ii) any such business must be a proper matter for shareholder action under Maryland law, (iii) the Shareholder Proponents (as defined below) must have acted in accordance with the representations set forth in the Solicitation Statement (as defined in below) or the Solicitation Undertaking (as defined below) required by these By-Laws, as applicable, (iv) the Shareholder Proponents must have complied in all respects with the requirements of Regulation 14A under the Exchange Act, including (in the case of nominations of a trustee) the requirements of Rule 14a-19 (as such rule and regulations may be amended from time to time by the Securities and Exchange Commission ("SEC") including any SEC Staff interpretations relating thereto), and (v) the Board of Trustees or an executive officer designated thereby for such purpose shall determine that the Shareholder Proponents have satisfied the requirements set forth in this Section 1.11. To be timely, a Record Shareholder's notice shall be delivered to the Secretary at the principal executive offices of the Company not earlier than the 150th day nor later than the close of business on the 120th day prior to the first anniversary of the release date of the Company's proxy statement to shareholders in connection with the preceding year's annual meeting; provided, however, that in the event that the date of the annual meeting is advanced by more than 30 days or delayed by more than 60 days from such anniversary date, notice by the Record Shareholder to be timely must be so delivered not earlier than the 150th day prior to such annual meeting and not later than the close of business on the later of the 120th day prior to such annual meeting, as originally convened, or the tenth day following the day on which public announcement of the date of such meeting is first made. The public announcement of a postponement or adjournment of an annual meeting shall not commence a new time period for the giving of a shareholder's notice.

Only such business shall be conducted at a special meeting of shareholders as shall have been brought before the meeting pursuant to the Company's notice of meeting and no shareholder may nominate an individual for election to the Board of Trustees or make a proposal of other business to be considered at a special meeting, except as set forth herein. Nominations of individuals for election to the Board of Trustees may be made at a special meeting of shareholders at which trustees are to be elected only (i) by or at the direction of the Board of Trustees, (ii) by a Record Shareholder that has requested that a special meeting be called for the purpose of electing trustees in compliance with Section 1.02 of this Article I and that has supplied the information and certifications required by (and that has, together with its individual nominee or nominees, as applicable, complied with all other applicable requirements set forth in) Section 1.02 and this Section 1.11 or (iii) provided that the special meeting has been called in accordance with Section 1.02 of this Article I for the purpose of electing trustees, by any shareholder of the Company who is a shareholder of record at the record date set by the Board of Trustees for the purpose of determining shareholders entitled to vote at the special meeting, at the time of giving of notice provided for in this Section 1.11 and at the time of the special meeting (and any postponement or adjournment thereof), who is entitled to vote at the meeting in the election of each individual so nominated and who has complied with the procedures and requirements set forth in this Section 1.11. For any shareholder proposal to be presented in connection with a special meeting of shareholders of the Company, including any proposal relating to the nomination of a trustee to be elected to the Board of Trustees of the Company, (i) the Record Shareholders must have given timely notice thereof in writing to the Secretary of the Company, (ii) any such business must be a proper matter for shareholder action under Maryland law, (iii) the Shareholder Proponents must have acted in accordance with the representations set forth in the Solicitation Statement or the Solicitation Undertaking required by these By-Laws, as applicable, (iv) the Shareholder Proponents must have complied in all respects with the requirements of Regulation 14A under the Exchange Act, including (in the case of nominations of a trustee) the requirements of Rule 14a-19 (as such rule and regulations may be amended from time to time by the SEC including any SEC Staff interpretations relating thereto), and (v) the Board of Trustees or an executive officer designated thereby for such purpose shall determine that the Shareholder Proponents have satisfied the requirements set forth in this Section 1.11. In the event the Company calls a special meeting of shareholders for the purpose of electing one or more individuals to the Board of Trustees, any shareholder may nominate an individual or individuals (as the case may be) for election as a trustee as specified in the Company's notice of meeting, if such shareholder and such individual nominee or nominees, as applicable, comply with the requirements set forth in this Section 1.11 and if the shareholder's notice, containing the information and certifications required by this Section 1.11, is delivered to the Secretary at the principal executive office of the Company not earlier than the 120th day prior to such special meeting and not later than the close of business on the later of the 90th day prior to such special meeting or the tenth day following the day on which public announcement is first made of the date of the special meeting and of the nominees proposed by the Board of Trustees to be elected at such meeting. The public announcement of a postponement or adjournment of a special meeting shall not commence a new time period for the giving of a shareholder's notice as described above.

Any Record Shareholders' notice pursuant to the two foregoing paragraphs shall set forth the information described in clauses (a) through (d) of this Section 1.11.

(a) in the case of any proposal by a Record Shareholder to nominate for election or re-elect a person as a trustee: (i) as to each person whom the Record Shareholder proposes to nominate for election or re-election as a trustee (1) all information relating to such person that is required to be disclosed in solicitations of proxies for election of trustees, or is otherwise required, in each case, pursuant to Regulation 14A under the Exchange Act (including such person's written consent to being named in the proxy statement as a nominee and a written statement of intent to serve as trustee for the full term if elected), (2) include the completed and signed questionnaire, certification required by clause (e) of this Section 1.11 and (3) all information required by clause (d) of this Section 1.11 with respect to a Covered Person); (ii) the names and addresses of other shareholders (including beneficial owners) known by such Record Shareholder to support such nomination, and to the extent known the class and number of all shares of beneficial interest of the Company owned beneficially or of record by such other shareholder(s) or beneficial owner(s); (iii) a description of all agreements, arrangements or understandings pertaining to the nomination(s) (including any agreements, arrangements or understandings relating to any compensation or payments to be paid to any proposed nominee(s)) by and among any Covered Persons, or by and among any Covered Person and any other person (including with any proposed nominee(s)), which description shall identify the name of each other person who is a party to such an agreement, arrangement or understanding; (iv) any agreement, arrangement or understanding between any Shareholder Proponent Party, on the one hand, and a Related Person, on the other hand, related to any subject matter that could reasonably be determined to be material in the Shareholder Proponent Party's solicitation of shareholders (including, without limitation, matters of social, labor, environmental and governance policy), regardless of

whether such agreement, arrangement or understanding relates specifically to the Company; (v) any agreement, arrangement or understanding between any Shareholder Proponent Party or any Related Person thereof, on the one hand, and the trustee nominee on the other hand, related to any subject matter that could reasonably be determined to be material in the Shareholder Proponent Party's solicitation of shareholders (including, without limitation, matters of social, labor, environmental and governance policy), regardless of whether such agreement, arrangement or understanding relates specifically to the Company; (vi) whether or not there are any plans or proposals on the part of the Shareholder Proponent Party or any Related Person to nominate directors at any other Public Company within the next 12 months; (vii) any proposals for business or nominations formally submitted for consideration at a meeting of shareholders, or by written or electronic consent, on behalf of any Shareholder Proponent Party or any Related Person seeking to nominate trustees at any other Public Company within the past 36 months (whether or not such proposal or nomination was publicly disclosed); and (viii) with respect to each Related Person, the same information that would be required to be disclosed under Item 5(b) of Schedule 14A under the Exchange Act with respect to any Person deemed to be a "participant" as defined in paragraphs (a)(ii), (iii), (iv), (v) and (vi) of Instruction 3 to Item 4 of Schedule 14A.

(b) in the case of any proposal by a Record Shareholder to nominate for election or re-elect a person as a trustee, a written undertaking by the Shareholder Proponents that such parties will (i) comply with Rule 14a-19 promulgated under the Exchange Act in connection with the solicitation of proxies in support of any nominee and (ii) deliver, (1) at least 20 calendar days before the annual meeting, a copy of its definitive proxy statement and form of proxy or (2) at least 40 calendar days before the annual meeting a Notice of Internet Availability of Proxy Materials that would satisfy the requirements of Rule 14a-16(d) of the Exchange Act, in each case, to beneficial holders of at least 67% of the voting power of all of the shares of beneficial interest of the Company entitled to vote general in the election of trustees (such undertaking, a "Solicitation Undertaking");

(c) as to any other business that the Record Shareholder proposes to bring before the annual meeting (other than the nomination of trustees): (i) a brief description of the business desired to be brought before the meeting; (ii) the text of the business (including the text of any resolutions proposed for consideration and in the event such business includes a proposal to amend these By-Laws, the language of the proposed amendment); (iii) the reasons for conducting such business at the meeting and any material interest of the Shareholder Proponents in such business; and (iv) a written statement whether or not each such Shareholder Proponent will deliver (y) at least 20 calendar days before the annual meeting, a copy of its definitive proxy statement and form of proxy or (z) at least 40 calendar days before the annual meeting a Notice of Internet Availability of Proxy Materials that would satisfy the requirement of Rule 14a-16(d) of the Exchange Act, in case, to holders of at least the percentage of voting power of all of the shares of beneficial interest of the Company required under applicable law to carry the proposal (such statement, a "Solicitation Statement");

(d) as to each Covered Person (as defined below): (i) the name and address of each such Covered Person, as they appear on the Company's books, if applicable; (ii) the class, series and number of shares of the Company which are owned beneficially and/or of record by each such Covered Person, the date on which such shares were acquired and the investment intent of such acquisition; (iii) any debt securities or other debt instruments of the Company or any of its subsidiaries ("Debt") that are, directly or indirectly, owned beneficially or of record by each such Covered Person; (iv) any option, warrant, convertible security, stock appreciation right, or similar right with an exercise or conversion privilege or a settlement payment or mechanism at a price related to any class or series of shares of the Company or Debt or with a value derived in whole or in part from the value of any class or series of shares of the Company or Debt, or any derivative or synthetic arrangement having the characteristics of a long position in any class or series of shares of the Company or Debt, or any contract, derivative, swap or other transaction or series of transactions designed to produce economic benefits and risks that correspond substantially to the ownership of any class or series of shares of the Company or Debt, including due to the fact that the value of such contract, derivative, swap or other transaction or series of transactions is determined by reference to the price, value or volatility of any class or series of shares of the Company or Debt, whether or not such instrument, contract or right shall be subject to settlement in the underlying class or series of beneficial interest of the Company or Debt, through the delivery of cash or other property, or otherwise, and without regard to whether such Covered Person may have entered into transactions that hedge or mitigate the economic effect of such instrument, contract or right, and any other direct or indirect opportunity to profit or share in any profit derived from any increase or decrease in the value of shares of the Company or Debt (any of the foregoing, a "Derivative Instrument") directly or indirectly owned beneficially by such Covered Person; (v) any proxy, contract, arrangement, understanding or relationship

pursuant to which any Covered Person has a right to vote any shares of any security of the Company; (vi) any short interest in any security or Debt of the Company (a "Short Interest") held by each such Covered Person (for purposes of Article I, a Person shall be deemed to have a Short Interest if such Person directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise, has, including any repurchase or similar so-called "stock borrowing" agreement or arrangement, involving such Covered Person, directly or indirectly, the purpose or effect of which is to mitigate loss to, reduce the economic risk (of ownership or otherwise) of any class or series of the shares of the Company by, manage the risk of share price changes for, or increase or decrease the voting power of, such Covered Person with respect to any class or series of the shares of the Company or Debt, or which provides, directly or indirectly, the opportunity to profit or share in any profit derived from any decrease in the price or value of the subject security or Debt; (vii) any rights to dividends on the shares of the Company owned beneficially by each such Covered Person that are separated or separable from the underlying shares of the Company; (viii) any proportionate interest in shares of the Company or Debt, Derivative Instruments or Short Interest held, directly or indirectly, by a general or limited partnership in which any Covered Person is a general partner or, directly or indirectly, beneficially owns an interest in a general partner; (ix) any performance-related fees (other than an asset-based fee) that each Covered Person is entitled to based on any increase or decrease in the value of shares of the Company or Debt, Derivative Instruments or Short Interest, if any; (x) any significant equity or other interests held by such Covered Person in any principal competitor of the Company or any counterparty to any litigation in which the Company is involved that is material to the Company and its subsidiaries, taken as a whole; (xi) any direct or indirect interest of such Covered Person in any contract with the Company, any affiliate of the Company, any principal competitor of the Company or any counterparty to any litigation in which the Company is involved that is material to the Company and its subsidiaries, taken as a whole (including, in any such case, any employment agreement, collective bargaining agreement or consulting agreement); (xii) the nominee holder for, and number of, shares of beneficial interest of the Company owned beneficially but not of record by such Covered Person; (xiii) the investment strategy or objective, if any, of such Covered Person who is not an individual and a copy of the prospectus, offering memorandum or similar document, if any, provided to investors or potential investors in such Covered Person; and (xiv) any other information relating to each Covered Person that would be required to be disclosed in a proxy statement or other filings or form of proxy required to be made in connection with solicitations of proxies for, as applicable, the proposal and/or for the election of trustees in a contested election pursuant to Section 14 of the Exchange Act.

(e) To be eligible to be a nominee of any shareholder for election or reelection as a trustee of the Company, such nominee must deliver (in accordance with the time periods prescribed for delivery of notice under this Section 1.11) to the Secretary at the principal executive offices of the Company a written questionnaire with respect to the background and qualification of such individual (which questionnaire shall be provided by the Secretary upon written request), and a written certification representing and agreeing (in the form provided by the Secretary upon written request) that such individual (a) is not and will not become a party to (i) any agreement, arrangement or understanding with, and has not given any commitment or assurance to, any person as to how such person, if elected as a trustee of the Company, will act or vote on any issue or question (a "Voting Commitment") that has not been disclosed to the Company, and (ii) any Voting Commitment that could limit or interfere with such individual's ability to comply, if elected as a trustee of the Company, with such individual's fiduciary duties under applicable law, (b) is not and will not become a party to any agreement, arrangement or understanding with any person other than the Company with respect to any direct or indirect compensation, reimbursement or indemnification in connection with service or action as a trustee that has not been disclosed to the Company, (c) agrees to promptly provide to the Company such other information as the Company may reasonably request, (d) in such individual's personal capacity would be in compliance, if elected as a trustee of the Company, and will comply, with all applicable corporate governance, conflict of interest, confidentiality and stock ownership and trading policies and guidelines of the Company publicly disclosed from time to time, (e) consents to being named as a nominee in the Company's proxy statement pursuant to Rule 14a-4(d) under the Exchange Act and any associated proxy card of the Company and (f) will serve as a trustee of the Company if elected and will notify the Company simultaneously with the notification to the Shareholder Proponent of the nominee's unwillingness or inability to serve as a trustee.

(f) (i) If any information or certification submitted pursuant to this Section 1.11 by any Shareholder Proponent proposing a nominee for election as a trustee or any proposal for other business at a meeting of shareholders, including any written certification from any nominee for election, shall be inaccurate in any material respect, such information or certification may be deemed not to have been provided in accordance with this Section 1.11. Any such shareholder shall notify the Company of any inaccuracy or change (within two Business Days of becoming aware of such inaccuracy or change) in any such information or certification. Upon written request by the secretary or the Board of Trustees, any such

Shareholder Proponent or proposed nominee for election shall provide, within five Business Days of delivery of such request (or such other period as may be specified in such request), (1) written verification, satisfactory, in the discretion of the Board of Trustees or any authorized officer of the Company, to demonstrate the accuracy of any information submitted by the shareholder pursuant to this Section 1.11, (2) a written update of any information (including, if requested by the Company, written confirmation by such shareholder that it continues to intend to bring such nomination or other business proposal before the meeting) submitted by the shareholder pursuant to this Section 1.11 as of an earlier date and (3) an updated certification by each nominee proposed for election that such individual will serve as a trustee of the Company if elected. If a shareholder fails to provide such written verification, or written update or certification within such period, the information as to which such written verification or a written update or certification was requested may be deemed not to have been provided in accordance with this Section 1.11.

(ii) Only such individuals who are nominated in accordance with this Section 1.11 shall be eligible for election by shareholders as trustees, and only such business shall be conducted at a meeting of shareholders as shall have been brought before the meeting in accordance with this Section 1.11. For the avoidance of doubt, a shareholder proposing a nominee for election as a trustee shall have no right to (1) nominate a number of nominees that exceed the number of trustees to be elected at the meeting or (2) substitute or replace any nominee unless such substitute or replacement is nominated in accordance with this Section 1.11 (including the timely provision of all information and certifications with respect to such substitute or replacement nominee in accordance with the deadlines set forth in this Section 1.11). If the Company provides notice to a shareholder that the number of nominees for election proposed by such shareholder exceeds the number of trustees to be elected at a meeting, the shareholder shall provide written notice to the Company within five Business Days stating the names of the nominees that have been withdrawn so that the number of nominees proposed by such shareholder no longer exceeds the number of trustees to be elected at a meeting. If any individual who is nominated in accordance with this Section 1.11 becomes unwilling or unable to serve on the Board of Trustees, then the nomination with respect to such individual shall no longer be valid and no votes may validly be cast for such individual. The chairperson of the meeting shall have the power to determine whether a nomination or any other business proposed to be brought before the meeting was made or proposed, as the case may be, in accordance with this Section 1.11.

(iii) Notwithstanding the foregoing provisions of this Section 1.11, the Company shall disregard any proxy authority granted in favor of, or votes for, trustee nominees other than the Company's nominees if the Shareholder Proponent soliciting proxies in support of such trustee nominees abandons the solicitation or does not (1) comply with Rule 14a-19 promulgated under the Exchange Act, including any failure by the Shareholder Proponent to (A) provide the Company with any notices required thereunder in a timely manner or (B) comply with the requirements of Rule 14a-19(a)(2) and Rule 14a-19(a)(3) promulgated under the Exchange Act or (2) timely provide sufficient evidence in the judgment of the Board of Trustees sufficient to satisfy the Company that such Nominating Shareholder has met the requirements of Rule 14a-19(a)(3) promulgated under the Exchange Act in accordance with the following sentence. Upon request by the Company, if any Shareholder Proponent provides notice pursuant to Rule 14a-19(b) promulgated under the Exchange Act (or is not required to provide notice because the information required by Rule 14a-19(b) has been provided in a preliminary or definitive proxy statement previously filed by such Shareholder Proponent), such Shareholder Proponent shall deliver to the Company, no later than five Business Days prior to the applicable meeting, sufficient evidence in the judgment of the Board of Trustees that it has met the requirements of Rule 14a-19(a)(3) promulgated under the Exchange Act.

SECTION 1.12. Control Share Acquisition Act. Notwithstanding any other provision of the Declaration of Trust of the Trust or these By-Laws, Title 3, Subtitle 7 of the Maryland General Corporation Law (the "MGCL") (or any successor statute) shall not apply to any acquisition by any person of shares of beneficial interest of the Trust. This section may be repealed, in whole or in part, at any time, whether before or after an acquisition of control shares and, upon such repeal, may, to the extent provided by any successor bylaw, apply to any prior or subsequent control share acquisition.

SECTION 1.13. Proxy Access.

(a) General. Notwithstanding anything to the contrary in these By-Laws, whenever the Board of Trustees solicits proxies with respect to the election of trustees at an annual meeting of shareholders, subject to the provisions of this Section 1.13, the Company shall include in its proxy statement and other applicable filings (the “Company Proxy Materials”) pursuant to Section 1.14(a) of the Exchange Act, in addition to any individuals nominated for election by or at the direction of the Board of Trustees, the name, together with the Required Information (as defined below), of any individual nominated for election to the Board of Trustees (each such individual being hereinafter referred to as a “Shareholder Nominee”) by a shareholder or a group of no more than 20 shareholders that satisfies the requirements of this Section 1.13 (such individual or group, including as the context requires each member thereof, being hereinafter referred to as the “Eligible Shareholder”). For purposes of this Section 1.13, the “Required Information” that the Company shall include in the Company Proxy Materials is (i) the information provided to the Secretary of the Company concerning the Shareholder Nominee and the Eligible Shareholder that is required to be disclosed in the Company Proxy Materials by the rules and regulations promulgated under the Exchange Act and (ii) if the Eligible Shareholder so elects, a written statement in support of the Shareholder Nominee’s candidacy, not to exceed 500 words, delivered to the Secretary of the Company at the time the Notice of Proxy Access Nomination (as defined below) required by this Section 1.13 is provided (the “Statement”). Notwithstanding anything to the contrary contained in this Section 1.13, the Company may omit from the Company Proxy Materials any information or Statement (or portion thereof) that the Board of Trustees determines is materially false or misleading, omits to state any material fact necessary in order to make such information or Statement, in light of the circumstances under which it was provided or made, not misleading, or would violate any applicable law or regulation.

(b) Eligibility. To be eligible to require the Company to include a Shareholder Nominee in the Company Proxy Materials pursuant to this Section 1.13, an Eligible Shareholder must have Owned (as defined below) at least 3% or more of the shares of beneficial interest, par value \$.0001 per share, designated as Common Stock (the “Common Stock”) of the Company outstanding from time to time (the “Required Shares”) continuously for at least 3 years (the “Minimum Holding Period”) as of the date the Notice of Proxy Access Nomination is received by the Secretary of the Company in accordance with this Section 1.13 and the close of business on the record date for determining the shareholders entitled to vote at the annual meeting of shareholders, and must continuously Own the Required Shares through the date of such annual meeting (and any postponement or adjournment thereof). For purposes of this Section 1.13, an Eligible Shareholder shall be deemed to “Own” only those outstanding shares of Common Stock as to which the Eligible Shareholder possesses both (i) the full voting and investment rights pertaining to such shares and (ii) the full economic interest in (including the opportunity for profit from and risk of loss on) such shares; provided that the number of shares calculated in accordance with clauses (i) and (ii) shall not include any shares (A) sold by such Eligible Shareholder or any of its Affiliates (as defined below) in any transaction that has not been settled or closed, including short sales, (B) borrowed by such Eligible Shareholder or any of its Affiliates for any purpose or purchased by such Eligible Shareholder or any of its Affiliates pursuant to an agreement to resell, (C) that are subject to any option, warrant, forward contract, swap, contract of sale, other derivative or similar instrument, agreement, arrangement or understanding entered into by such shareholder or any of its Affiliates, whether any such instrument, agreement, arrangement or understanding is to be settled with shares or with cash based on the notional amount or value of outstanding shares of Common Stock, in any such case which instrument, agreement, arrangement or understanding has, or is intended to have, the purpose or effect of (1) reducing in any manner, to any extent or at any time in the future, such shareholder’s or its Affiliate’s full right to vote or direct the voting of any such shares and/or (2) hedging, offsetting or altering to any degree any gain or loss arising from the full economic ownership of such shares by such shareholder or its Affiliate or (D) for which the shareholder has transferred the right to vote the shares other than by means of a proxy, power of attorney or other instrument or arrangement that is unconditionally revocable at any time by the shareholder and that expressly directs the proxy holder to vote at the direction of the shareholder. In addition, an Eligible Shareholder shall be deemed to “Own” shares of Common Stock held in the name of a nominee or other intermediary so long as the shareholder retains the full right to instruct how the shares are voted with respect to the election of trustees and possesses the full economic interest in the shares of Common Stock. An Eligible Shareholder’s Ownership of shares of Common Stock shall be deemed to continue during any period in which the shareholder has loaned such shares provided that the Eligible Shareholder has the power to recall such loaned shares on not more than three (3) Business Days’ notice and has in fact recalled such loaned shares as of the time the Notice of Proxy Access Nomination is provided and through the date of the annual meeting of shareholders. For purposes of this Section 1.13, the terms “Owned,” “Owning” and other variations of the word “Own” shall have correlative meanings. Whether outstanding shares of

Common Stock are “Owned” for these purposes shall be determined by the Board of Trustees. In addition, the term “Affiliate” or “Affiliates” shall have the meaning ascribed thereto under the Exchange Act.

(c) Submission of Notice. To be eligible to require the Company to include a Shareholder Nominee in the Company Proxy Materials pursuant to this Section 1.13, an Eligible Shareholder must provide to the Secretary of the Company, in proper form and within the times specified below, (i) a written notice expressly electing to have such Shareholder Nominee included in the Company Proxy Materials pursuant to this Section 1.13 (a “Notice of Proxy Access Nomination”) and (ii) any updates or supplements to such Notice of Proxy Access Nomination. To be timely, the Notice of Proxy Access Nomination must be delivered or mailed to and received by the Secretary of the Company at the principal executive office of the Company not earlier than the 150th day nor later than 5:00 p.m., Eastern Time, on the 120th day prior to the first anniversary of the date of the proxy statement (as below) for the preceding year’s annual meeting; provided, however, that in the event that the date of the annual meeting of shareholders is advanced by more than 30 days or delayed by more than 60 days from such anniversary date, the Notice of Proxy Access Nomination to be timely must be so delivered or mailed to and received by the Secretary not earlier than the 90th day prior to the date of such annual meeting and not later than the close of business on the later of the 60th day prior to the date of such annual meeting, as originally convened, or the tenth day following the day on which public announcement of the date of such annual meeting is first made. The public announcement of a postponement or an adjournment of an annual meeting shall not commence a new time for the giving of a Notice of Proxy Access Nomination as described above. As used herein, “the date of the proxy statement” shall have the same meaning as “the date of the company’s proxy statement released to shareholders” as used in Rule 14a-8(e) promulgated under the Exchange Act, as interpreted by the Securities and Exchange Commission from time to time.

(d) Content of Notice. To be in proper form for purposes of this Section 1.13, the Notice of Proxy Access Nomination delivered or mailed to and received by the Secretary shall include the following information:

(i) one or more written statements from the record holder of the Required Shares (or from each intermediary through which the Required Shares are or have been held during the Minimum Holding Period and, if applicable, each participant in the Depository Trust Company (“DTC”) or affiliate of a DTC participant through which the Required Shares are or have been held by such intermediary during the Minimum Holding Period if the intermediary is not a DTC participant or affiliate of a DTC participant) verifying that, as of a date within seven Business Days prior to the date the Notice of Proxy Access Nomination is delivered to or mailed to and received by the Secretary of the Company, the Eligible Shareholder Owns, and has Owned continuously for the Minimum Holding Period, the Required Shares, and the Eligible Shareholder’s agreement to provide (A) within five Business Days after the record date for the annual meeting of shareholders, written statements from the record holder or intermediaries between the record holder and the Eligible Shareholder verifying the Eligible Shareholder’s continuous Ownership of the Required Shares through the close of business on the record date, together with a written statement by the Eligible Shareholder that such Eligible Shareholder will continue to Own the Required Shares through the date of such annual meeting (and any postponement or adjustment thereof), and (B) the updates and supplements to the Notice of Proxy Access Nomination at the times and in the forms required by this Section 1.13;

(ii) (a copy of the Schedule 14N filed or to be filed with the Securities and Exchange Commission as required by Rule 14a-18 under the Exchange Act;

(iii) information that is the same as would be required to be set forth in a shareholder’s notice of nomination pursuant to Section 1.11 of Article I of these By-Laws, including the written consent of the Shareholder Nominee to being named in the Company Proxy Materials as a nominee and to serving as a trustee if elected;

(iv) a written undertaking executed by the Shareholder Nominee (A) that such Shareholder Nominee (1) is not, and will not become, a party to any agreement, arrangement or understanding with any person or entity other than the Company in connection with service or action as a trustee that has not been disclosed to the Company and (2) will serve as a trustee of the Company if elected and (B) attaching a completed Shareholder Nominee questionnaire (which questionnaire shall be provided by the Company, upon request by the Eligible Shareholder, and shall include all information relating to the Shareholder Nominee that would be required to be disclosed in connection with the solicitation of proxies for the election of the Shareholder Nominee as a trustee in an election contest (even if an election contest is

not involved), or would otherwise be required in connection with such solicitation, in each case pursuant to Regulation 14A (or any successor provision) under the Exchange Act, or would be required pursuant to the rules of any national securities exchange on which any securities of the Company are listed or over-the-counter market on which any securities of the Company are traded);

(v) the written agreement of the Shareholder Nominee, upon such Shareholder Nominee's election, to make such acknowledgments, enter into such agreements and provide such information as the Board of Trustees requires of all trustees at such time, including, without limitation, agreeing to be bound by the Company's code of conduct, insider trading policy and other similar policies and procedures;

(vi) an irrevocable resignation of the Shareholder Nominee, which shall become effective upon a determination by the Board of Trustees that the information provided to the Company by such individual pursuant to this Section 1.13 or pursuant to Section 1.11 of these By-Laws was untrue in any material respect or omitted to state a material fact necessary in order to make the information, in light of the circumstances under which it was provided, not misleading;

(vii) a representation that the Eligible Shareholder (A) acquired the Required Shares in the ordinary course of business and not with the intent to change or influence control of the Company, and that neither the Eligible Shareholder nor any Shareholder Nominee being nominated thereby presently has such intent, (B) has not nominated and will not nominate for election to the Board of Trustees at the annual meeting of shareholders (or any postponement or adjournment thereof) any individual other than the Shareholder Nominee(s) included in the Company Proxy Materials pursuant to this Section 1.13, (C) has not engaged and will not engage in, and has not been and will not be a "participant" in another person's, "solicitation," each within the meaning of Rule 14a-1(l) under the Exchange Act in support of the election of any individual as a trustee at the annual meeting (or any postponement or adjournment thereof) other than such Shareholder Nominee(s) or a nominee of the Board of Trustees, (D) has complied, and will comply, with all applicable laws and regulations applicable to solicitations and the use, if any, of soliciting material in connection with the annual meeting, including, without limitation, Rule 14a-9 under the Exchange Act, (E) will not distribute to any shareholder any form of proxy for the annual meeting other than the form distributed by the Company and (F) has not provided and will not provide facts, statements or information in its communications with the Company and the shareholders that were not or will not be true, correct and complete in all material respects or which omitted or will omit to state a material fact necessary in order to make such facts, statements or information, in light of the circumstances under which they were or will be provided, not misleading;

(viii) a written undertaking that the Eligible Shareholder (A) assumes all liability stemming from any legal or regulatory violation arising out of communications with the shareholders by the Eligible Shareholder, its Affiliates and associates or their respective agents or representatives, either before or after providing a Notice of Proxy Access Nomination pursuant to this Section 1.13, or out of the facts, statements or information that the Eligible Shareholder or its Shareholder Nominee(s) provided to the Company pursuant to this Section 1.13 or otherwise in connection with the inclusion of such Shareholder Nominee(s) in the Company Proxy Materials pursuant to this Section 1.13, and (B) indemnifies and holds harmless the Company and each of its trustees, officers and employees against any liability, loss or damages in connection with any threatened or pending action, suit or proceeding, whether legal, administrative or investigative, against the Company or any of its trustees, officers or employees arising out of any nomination of a Shareholder Nominee or inclusion of such Shareholder Nominee in the Company Proxy Materials pursuant to this Section 1.13; and

(ix) a written description of any agreement, arrangement or understanding with, or commitment or assurance to, any person or entity as to how the Shareholder Nominee, if elected as a trustee, will act or vote on any issue or question or issues or questions generally in their capacity as a trustee, together with a copy of any such agreement, arrangement or understanding, if written;

(x) a written description of any compensatory, payment or other agreement, arrangement or understanding with any person or entity other than the Company under which the Shareholder Nominee is receiving or will receive compensation or payments directly related to service on the Board of Trustees, together with a copy of any such agreement, arrangement or understanding if written; and

(xi) in the case of the nomination by a group, the designation by all group members of one group member that is authorized to act on behalf of all group members with respect to matters relating to the nomination, including withdrawal of the nomination.

The Company may also require each Shareholder Nominee and the Eligible Shareholder to furnish such other information (A) as may reasonably be required by the Company to determine the eligibility of such Shareholder Nominee to serve as an independent trustee, (B) that could be material to a shareholder's understanding of the independence or lack of independence of such Shareholder Nominee or (C) as may be reasonably be required by the Company to determine that the Eligible Shareholder meets the criteria for qualification as an Eligible Shareholder.

(e) Updates to Notice. To be eligible to require the Company to include a Shareholder Nominee in the Company Proxy Materials pursuant to this Section 1.13, an Eligible Shareholder must further update and supplement the Notice of Proxy Access Nomination, if necessary, so that the information provided or required to be provided in such Notice of Proxy Access Information pursuant to this Section 1.13 shall be true and correct as of the record date for the annual meeting of shareholders and as of the date that is ten Business Days prior to such annual meeting or any postponement or adjournment thereof, and such update and supplement (or a written notice stating that there is no such update or supplement) shall be delivered or mailed to and received by the Secretary at the principal executive office of the Company not later than 5:00 p.m., Eastern Time, on the fifth Business Day after the record date for the meeting (in the case of the update and supplement required to be made as of the record date) and not later than 5:00 p.m., Eastern Time, on the eighth Business Day prior to the date of the meeting, if practicable, or, if not practicable, on the first practicable date prior to the meeting or any postponement or adjournment thereof (in the case of the update and supplement required to be made as of ten Business Days prior to the meeting or any postponement or adjournment thereof).

(f) Notification of Changes. In the event that any facts, statements or information provided by the Eligible Shareholder or a Shareholder Nominee to the Company or the shareholders ceases to be true, correct and complete in all material respects or omits a material fact necessary to make such facts, statements or information, in light of the circumstances under which they were provided, not misleading, the Eligible Shareholder or Shareholder Nominee, as the case may be, shall promptly notify the Secretary of the Company of any defect in such previously provided facts, statements or information and of the facts, statements or information required to correct any such defect.

(g) Eligible Shareholder Groups. Whenever an Eligible Shareholder consists of a group of more than one shareholder, each provision in this Section 1.13 that requires the Eligible Shareholder to provide any written statements, representations, undertakings, agreements or other instruments or to meet any other conditions shall be deemed to require each shareholder that is a member of such group to provide such statements, representations, undertakings, agreements or other instruments and to comply with such other conditions (which, if applicable, shall apply with respect to the portion of the Required Shares Owned by such shareholder). When an Eligible Shareholder is comprised of a group, a violation of any provision of these By-Laws by any member of the group shall be deemed a violation by the entire group. No person may be a member of more than one group of persons constituting an Eligible Shareholder with respect to any annual meeting of shareholders. In determining the aggregate number of shareholders in a group, two or more funds that are (i) under common management and investment control, (ii) under common management and funded primarily by the same employer (or by a group of related employers that are under common control) or (iii) a "group of investment companies," as such term is defined in Section 12(d)(1)(G)(ii) of the Investment Company Act of 1940, as amended (each, a "Qualifying Fund Family"), shall be treated as one shareholder. Not later than the deadline for delivery of the Notice of Proxy Access Nomination pursuant to this Section 1.13, a Qualifying Fund Family whose stock Ownership is counted for purposes of determining whether a shareholder or group of shareholders qualifies as an Eligible Shareholder shall provide to the Secretary of the Trust such documentation as is reasonably satisfactory to the Board of Trustees, in its sole discretion, that demonstrates that the funds comprising the Qualifying Fund Family satisfy the definition thereof.

(h) Maximum Number of Shareholder Nominees. The maximum number of Shareholder Nominees nominated by all Eligible Shareholders and entitled to be included in the Company Proxy Materials with respect to an annual meeting of shareholders shall be the greater of (i) 20% of the number of Trustees up for election as of the last day on which a Notice of Proxy Access Nomination may be timely delivered pursuant to and in accordance with this Section 1.13 (the "Final Proxy Access Nomination Date") or, if such percentage is not a whole number, the closest whole number below such percentage or (ii) two; provided that the maximum number of Shareholder Nominees entitled to be included in the Company Proxy Materials with respect to the forthcoming annual meeting of shareholders shall be reduced by the number of individuals who were elected as trustees at the immediately preceding or second preceding annual meeting of shareholders after inclusion in the Company Proxy Materials pursuant to this Section 1.13 and whom the Board of Trustees nominates for re-election at such forthcoming annual meeting of shareholders. In the event that one or more vacancies for any reason occur on the Board of Trustees after the Final Proxy Access Nomination Date but before the date of the annual meeting of shareholders and the Board of Trustees elects to reduce the size of the Board of Trustees in connection therewith, the maximum number of Shareholder Nominees eligible for inclusion in the Company Proxy Materials pursuant to this Section 1.13 shall be calculated based on the number of trustees serving as so reduced. Any individual nominated by an Eligible Shareholder for inclusion in the Company Proxy Materials pursuant to this Section 1.13 whose nomination is subsequently withdrawn or whom the Board of Trustees decides to nominate for election to the Board of Trustees shall be counted as one of the Shareholder Nominees for purposes of determining when the maximum number of Shareholder Nominees eligible for inclusion in the Company Proxy Materials pursuant to this Section 1.13 has been reached. Any Eligible Shareholder submitting more than one Shareholder Nominee for inclusion in the Company Proxy Materials pursuant to this Section 1.13 shall rank such Shareholder Nominees based on the order that the Eligible Shareholder desires such Shareholder Nominees be selected for inclusion in the Company Proxy Materials in the event that the total number of Shareholder Nominees submitted by Eligible Shareholders pursuant to this Section 1.13 exceeds the maximum number of Shareholder Nominees eligible for inclusion in the Company Proxy Materials pursuant to this Section 1.13(h). In the event the number of Shareholder Nominees submitted by Eligible Shareholders pursuant to this Section 1.13 exceeds the maximum number of nominees eligible for inclusion in the Company Proxy Materials pursuant to this Section 1.13(h), the highest-ranking Shareholder Nominee from each Eligible Shareholder pursuant to the preceding sentence shall be selected for inclusion in the Company Proxy Materials until the maximum number is reached, proceeding in order of the number of shares of Common Stock (largest to smallest) disclosed as Owned by each Eligible Shareholder in the Notice of Proxy Access Nomination submitted to the Secretary of the Company. If the maximum number is not reached after the highest-ranking Shareholder Nominee from each Eligible Shareholder has been selected, this selection process shall continue as many times as necessary, following the same order each time, until the maximum number is reached. The Shareholder Nominees so selected by each Eligible Shareholder in accordance with this Section 1.15(h) shall be the only Shareholder Nominees entitled to be included in the Company Proxy Materials and, following such selection, if the Shareholder Nominees so selected are not included in the Company Proxy Materials or are not submitted for election for any reason (other than the failure of the Company to comply with this Section 1.13), no other Shareholder Nominees shall be included in the Company Proxy Materials pursuant to this Section 1.13.

(i) Exclusions. The Company shall not be required to include, pursuant to this Section 1.13, a Shareholder Nominee in the Company Proxy Materials for any annual meeting of shareholders (i) for which meeting the Secretary of the Company receives a notice that the Eligible Shareholder or any other shareholder has nominated one or more individuals for election to the Board of Trustees pursuant to the advance notice requirements for shareholder nominees for trustee set forth in Section 1.11 of Article I of these By-Laws, (ii) if the Eligible Shareholder who has nominated such Shareholder Nominee has engaged in or is currently engaged in, or has been or is a "participant" in another person's, "solicitation," each within the meaning of Rule 14a-1(l) under the Exchange Act, in support of the election of any individual as a Trustee at the annual meeting other than its Shareholder Nominee(s) or a nominee of the Board of Trustees, (iii) if such Shareholder Nominee would not qualify as an independent trustee, (iv) if the election of such Shareholder Nominee as a trustee would cause the Company to fail to comply with these By-Laws, the Declaration of Trust, the rules and listing standards of any national securities exchange on which any securities of the Company are listed or over-the-counter market on which any securities of the Company are traded, or any applicable state or federal law, rule or regulation, (v) if such Shareholder Nominee is or has been, within the past three (3) years, an officer or director of a competitor, as defined in Section 8 of the Clayton Antitrust Act of 1914, (vi) if such Shareholder Nominee is a defendant in or named subject of a pending criminal proceeding (excluding traffic violations and other minor offenses) or has been convicted or has pleaded *nolo contendere* in such a criminal proceeding within the past ten years, (vii) if such Shareholder Nominee is subject to any order of the type specified in

Rule 506(d) of Regulation D promulgated under the Securities Act of 1933, as amended, (viii) if the Eligible Shareholder who has nominated such Shareholder Nominee or such Shareholder Nominee provides any facts, statements or information to the Company or the shareholders required or requested pursuant to this Section 1.13 that is not true, correct and complete in all material respects or that omits a material fact necessary to make such facts, statements or information, in light of the circumstances in which they were provided, not misleading, or that otherwise contravenes any of the agreements, representations or undertakings made by such Eligible Shareholder or Shareholder Nominee pursuant to this Section 1.13 or (ix) if the Eligible Shareholder who has nominated such Shareholder Nominee or such Shareholder Nominee fails to comply with any of its obligations pursuant to this Section 1.13, in each instance as determined by the Board of Trustees, in its sole discretion.

(j) Invalid Nominations. Notwithstanding anything to the contrary set forth herein, the Board of Trustees or the officer of the Company presiding at an annual meeting of shareholders shall declare a nomination by an Eligible Shareholder to be invalid, and such nomination shall be disregarded notwithstanding that proxies in respect of such vote may have been received by the Company, if (i) the Shareholder Nominee(s) and/or the applicable Eligible Shareholder shall have failed to comply with its or their obligations under this Section 1.13, as determined by the Board of Trustees or the officer presiding at the annual meeting, or (ii) the Eligible Shareholder, or a qualified representative thereof, does not appear at the annual meeting of shareholders to present the nomination of the Shareholder Nominee(s) included in the Company Proxy Materials pursuant to this Section 1.13. For purposes of this Section 1.13(j), to be considered a qualified representative of a shareholder, a person must be a duly authorized officer, manager or partner of such shareholder or must be authorized by a writing executed by such shareholder or an electronic transmission delivered by such shareholder to act for such shareholder as its proxy at the annual meeting of shareholders and such person must produce such writing or electronic transmission, or a reliable reproduction thereof, at such annual meeting.

(k) Future shareholder Nominee Eligibility. Any Shareholder Nominee who is included in the Company Proxy Materials for an annual meeting of shareholders but either (i) withdraws from or becomes ineligible or unavailable for election to the Board of Trustees at such annual meeting or (ii) does not receive a number of “for” votes equal to at least 25% of the number of votes cast by shareholders in the election of such Shareholder Nominee at such annual meeting shall be ineligible for inclusion in the Company Proxy Materials as a Shareholder Nominee pursuant to this Section 1.13 for the next three annual meetings of shareholders. For the avoidance of doubt, this Section 1.13(k) shall not prevent any shareholder from nominating any individual to the Board of Trustees pursuant to and in accordance with Section 1.11 of Article I of these By-Laws.

(l) Exclusivity. This Section 1.13 provides the exclusive method for a shareholder to require the Company to include nominee(s) for election to the Board of Trustees in the Company Proxy Materials.

SECTION 1.14. Proxy Cards. Any shareholder directly or indirectly soliciting proxies from other shareholders must use a proxy card color other than white, which shall be reserved for the exclusive use by the Board of Trustees.

SECTION 1.15. Definitions. For purposes of Sections 1.02, 1.10 and 1.11:

(i) “Control Person” shall mean, with respect to any Person, collectively, (1) any Person that, directly or indirectly, has the power to direct or cause the direction of the management or policies of such first Person, whether through the ability to exercise voting power, by contract or otherwise, and (2) such first Person’s and any Control Person’s respective directors, trustees, executive officers and managing members (including, with respect to an entity exempted from taxation under Section 501(1) of the Internal Revenue Code, each member of the board of trustee, board of directors, executive council or similar governing body thereof).

(ii) “Covered Person” shall mean, collectively, each Shareholder Proponent Party, and (ii) any Related Person of a Shareholder Proponent Party; provided, however, that if the Shareholder Proponent Party or any controlled affiliate thereof is a non-natural Person that holds securities of the Company, Debt, Derivative Instruments or Short Interests of record or beneficially for the economic benefit (direct or indirect) of any other Person (including a Shareholder Proponent Party or controlled affiliate thereof that is (i) an investment fund or other investment vehicle (a “Holding Fund”) or (ii) an advisor or investment manager to a Holding Fund), then any Person that directly holds (or is known by the

Shareholder Proponent Party to indirectly hold) a 5% or larger member, limited partner or similar economic interest in any such Holding Fund shall be deemed a "Covered Person"; provided further, however, that if such Holding Fund has a "sidecar vehicle" or special purpose entity formed by an investment manager or adviser for purposes of co-investing with a Holding Fund that was created or raised proceeds principally to invest in securities of the Company, Debt, Derivative Instruments or Short Interests, then each Person (and Controlling Person thereof) that has invested or committed to invest in such fund or other investment vehicle shall be deemed a Covered Person.

(iii) "Family Member" shall mean a person's spouse, parents, children, siblings, mothers- and fathers-in-law, sons- and daughters-in-law, brothers- and sisters-in-law, and anyone (other than domestic employees) who share the person's home.

(iv) "Person" shall mean an individual, a corporation, a partnership, a limited liability company, an association, a trust or any other entity, group (as such term is used in Section 13 of the Exchange Act) or organization, and any permitted successors and assigns of such person.

(v) "Public Company" shall mean any Person with a class of equity securities registered pursuant to Section 12 of the Exchange Act, whether or not trading in such securities has been suspended.

(vi) "Related Person" shall mean, with respect to a Shareholder Proponent Party, a Person (and any Control Person thereof) with respect to which such Shareholder Proponent Party is Acting in Concert. For purposes of these By-Laws, a Shareholder Proponent Party shall be deemed to be "Acting in Concert" with a Person if such Shareholder Proponent Party has knowingly acted (whether or not pursuant to an express agreement, arrangement or understanding) at any time during the prior two years in concert with such Person (or Control Person thereof) in relation to matters (whether or not specific to the Company) that will be material to the Shareholder Proponent Party's solicitation of shareholders, including, without limitation, matters of social, labor, environmental and governance policy; provided, however, that a Shareholder Proponent Party shall not be deemed to be acting in concert with a Person that is a Holding Fund or a Person whose primary business is to serve as investment manager or adviser with respect to investing and trading in securities for a client or its own account.

(vii) "Shareholder Notice" shall mean a Record Date Request Notice, a Consent Record Date Request Notice or a notice of director nomination or other proposal for business.

(viii) "Shareholder Proponent" shall mean any Record Shareholder giving the Shareholder Notice and, if the Shareholder Notice is given on behalf of another beneficial owner on whose behalf the Shareholder Notice is made, such beneficial owner.

(ix) "Shareholder Proponent Party" shall mean, collectively, any Shareholder Proponent, and if such Shareholder Proponent is a non-natural Person, each Control Person thereof (in each case of a stockholder, beneficial owner or Control Person, together with any Family Member thereof).

ARTICLE II. BOARD OF TRUSTEES

SECTION 2.01. Function of Trustees. The business and affairs of the Company shall be managed under the direction of its Board of Trustees. All powers of the Company may be exercised by or under authority of the Board of Trustees, except as conferred on or reserved to the shareholders by statute or by the Declaration of Trust or By-Laws.

SECTION 2.02. Number of Trustees. At any regular meeting or at any special meeting called for that purpose, a majority of the entire Board of Trustees may establish, increase or decrease the number of Trustees, provided that the number thereof shall never be less than the minimum number required by the Maryland REIT Law and further provided that the tenure of office of a Trustee shall not be affected by any decrease in the number of Trustees.

SECTION 2.03. Election and Tenure of Trustees. At each annual meeting the shareholders shall elect trustees to hold office until the next annual meeting and until their successors are elected and qualify.

SECTION 2.04. Removal of Trustee. Any trustee or the entire Board of Trustees may be removed only in accordance with the provisions of the Declaration of Trust.

SECTION 2.05. Vacancy on Board of Trustees. The shareholders shall elect a successor to fill a vacancy on the Board of Trustees which results from the removal of a trustee. A trustee elected by the shareholders to fill a vacancy which results from the removal of a trustee serves for the balance of the term of the removed trustee. A majority of the remaining Trustees, whether or not sufficient to constitute a quorum, may fill a vacancy on the Board of Trustees which results from any increase in the authorized number of Trustees, or death, resignation, retirement or other cause. A trustee elected by the Board of Trustees to fill a vacancy serves until the next annual meeting of shareholders and until their successor is elected and qualifies.

SECTION 2.06. Regular Meetings. After each meeting of shareholders at which trustees shall have been elected, the Board of Trustees shall meet as soon as practicable for the purpose of organization and the transaction of other business. In the event that no other time and place are specified by resolution of the Board of Trustees, the President or the Chairperson of the Board of Trustees, with notice in accordance with Section 2.08, the Board of Trustees shall meet immediately following the close of, and at the place of, such shareholders' meeting. Any other regular meeting of the Board of Trustees shall be held on such date and at any place as may be designated from time to time by the Board of Trustees.

SECTION 2.07. Special Meetings. Special meetings of the Board of Trustees may be called at any time by the Chairperson of the Board of Trustees or the President or by a majority of the Board of Trustees by vote at a meeting or in writing with or without a meeting. A special meeting of the Board of Trustees shall be held on such date and at any place as may be designated from time to time by the Board of Trustees. In the absence of designation such meeting shall be held at such place as may be designated in the call.

SECTION 2.08. Notice of Meeting. Except as provided in Section 2.06, the Secretary shall give notice to each trustee of each regular and special meeting of the Board of Trustees. The notice shall state the time and place of the meeting. Notice is given to a trustee when it is delivered personally to him, left at their residence or usual place of business, or sent by telegraph, facsimile transmission or telephone, at least 24 hours before the time of the meeting or, in the alternative by mail to their address as it shall appear on the records of the Company, at least 72 hours before the time of the meeting. Unless these By-Laws or a resolution of the Board of Trustees provides otherwise, the notice need not state the business to be transacted at or the purposes of any regular or special meeting of the Board of Trustees. No notice of any meeting of the Board of Trustees need be given to any trustee who attends except where a trustee attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened, or to any trustee who, in writing executed and filed with the records of the meeting either before or after the holding thereof, waives such notice. Any meeting of the Board of Trustees, regular or special, may adjourn from time to time to reconvene at the same or some other place, and no notice need be given of any such adjourned meeting other than by announcement.

SECTION 2.09. Action by Trustees. Unless statute, the Declaration of Trust or these By-Laws requires a greater proportion, the action of a majority of the trustees present at a meeting at which a quorum is present is action of the Board of Trustees. A majority of the entire Board of Trustees shall constitute a quorum for the transaction of business. In the absence of a quorum, the trustees present by majority vote and without notice other than by announcement may adjourn the meeting from time to time until a quorum shall attend. At any such adjourned meeting at which a quorum shall be present, any business may be transacted which might have been transacted at the Meeting as originally notified. Any action required or permitted to be taken at a meeting of the Board of Trustees may be taken without a meeting, if a unanimous written or electronic consent which sets forth the action is signed or authorized by each member of the Board of Trustees and filed with the minutes of proceeding of the Board of Trustees. Notwithstanding the foregoing, in the event Lepercq Corporate Income Fund, L.P. or any other similar "UPREIT" partnership in which the Company or its affiliates is the general partner (each, an "Operating Partnership"), determines to distribute, on a per unit basis, to its limited partners an amount which is in excess of the largest corresponding distribution to be made by any other Operating Partnership, on a per unit basis (an "Excess Distribution"), such Excess Distribution shall require the approval of a majority of the Independent Trustees. For purposes of this Section 2.09, "Independent Trustees" means those members of the Board of

Trustees who (i) have been designated by the Board of Trustees as “independent” under the applicable rules of the New York Stock Exchange (or other exchange on which the Company is then listed) and (ii) are not a limited partner of the Operating Partnership which is making the Excess Distribution. The prior two sentences of this Section 2.09 and any provision relating to the making of distributions in the organizational documents of the general partner of an Operating Partnership may only be amended by the vote of a majority of the Independent Trustees.

SECTION 2.10. Meeting by Conference Telephone. Members of the Board of Trustees may participate in a meeting by means of a conference telephone or similar communications equipment if all persons participating in the meeting can hear each other at the same time. Participation in a meeting by these means constitutes presence in person at a meeting.

SECTION 2.11. Compensation. By resolution of the Board of Trustees a fixed sum and expenses, if any, for attendance at each regular or special meeting of the Board of Trustees or of committees thereof, and other compensation for their services as such or on committees of the Board of Trustees, may be paid to trustees. Trustees who are full-time employees of the Company need not be paid for attendance at meetings of the Board of Trustees or committees thereof for which fees are paid to other trustees. A trustee who serves the Company in any other capacity also may receive compensation for such other services, pursuant to a resolution of the Board of Trustees.

SECTION 2.12. Advisory Trustees. The Board of Trustees may by resolution appoint advisory trustees to the Board of Trustees, who may also serve as trustees emeriti, and shall have such authority and receive such compensation and reimbursement as the Board of Trustees shall provide. Advisory trustees or trustees emeriti shall not have the authority to participate by vote in the transaction of business.

ARTICLE III. COMMITTEES

SECTION 3.01. Committees. The Board of Trustees may appoint from among its members an Audit Committee, a Compensation Committee, a Nominating and Corporate Governance Committee and other committees composed of one or more trustees and delegate to these committees any of the powers of the Board of Trustees, except (i) the power to authorize dividends on stock (other than as provided below), (ii) elect directors, (iii) issue stock (other than as provided below), (iv) recommend to the shareholders any action which requires shareholder approval, (v) amend these By-Laws, or (vi) approve any merger or share exchange which does not require shareholder approval. The entire Audit Committee and the entire Nominating and Corporate Governance Committee shall be trustees who are independent of management. The entire Compensation Committee shall be trustees who are “disinterested persons” within the meaning of Rule 16b-3 of the Securities Exchange Act of 1934, as amended. If the Board of Trustees has given general authorization for a distribution and provides for or establishes a method or procedure for determining the maximum amount of the distribution, a committee of the Board of Trustees or an officer of the Company, in accordance with that general authorization, may fix the amount and other terms of the distribution. If the Board of Trustees has given general authorization for the issuance of beneficial interest, a committee of the Board of Trustees, in accordance with a general formula or method specified by the Board of Trustees by resolution or adoption of a beneficial interest option or other plan, may fix the terms of beneficial interest subject to classification or reclassification and the terms on which any beneficial interest may be issued, including all terms and conditions required or permitted to be established or authorized by the Board of Trustees.

SECTION 3.02. Committee Procedure. Each committee may fix rules of procedure for its business. A majority of the members of a committee shall constitute a quorum for the transaction of business and the act of a majority of those present at a meeting at which a quorum is present shall be the act of the committee. The members of a committee present at any meeting, whether or not they constitute a quorum, may appoint a trustee to act in the place of an absent member. Any action required or permitted to be taken at a meeting of a committee may be taken without a meeting, if a unanimous written or electronic consent which sets forth the action is signed or authorized by each member of the committee and filed with the minutes of the committee. The members of a committee may conduct any meeting thereof by conference telephone in accordance with the provisions of Section 2.10.

SECTION 3.03. Emergency. In the event of a state of disaster of sufficient severity to prevent the conduct and management of the affairs and business of the Company by its trustees and officers as contemplated by the Declaration of Trust and these By-Laws, the available trustees shall elect a Special Executive Committee consisting of any two members of the Board of Trustees, whether or not they be officers of the Company, which two members shall constitute the Special Executive Committee for the full conduct and management of the affairs of the Company in accordance with the foregoing provisions of this Section. This Section shall be subject to implementation by resolution of the Board of Trustees passed from time to time for that purpose, and any provisions of these By-Laws (other than this Section) and any resolutions which are contrary to the provisions of this Section or to the provisions of any such implementary resolutions shall be suspended until it shall be determined by any Special Executive Committee acting under this Section that it shall be to the advantage of the Company to resume the conduct and management of its affairs and business under all the other provisions of these By-Laws.

ARTICLE IV. OFFICERS

SECTION 4.01. Executive and Other Officers. The Company shall have a President, a Secretary, and a Treasurer. It may also have a Chairperson of the Board of Trustees, a Vice Chairperson of the Board, a Chief Executive Officer, a Chief Operating Officer, a Chief Information Officer, a Chief Financial Officer, and a Chief Accounting Officer. In addition, the Board of Trustees may from time to time elect such other officers with such powers and duties as they shall deem necessary or desirable. The Company may also have one or more Vice-Presidents, assistant officers, and subordinate officers as may be established by the Board of Trustees. A person may hold more than one office in the Company except that no person may serve concurrently as both President and a Vice-President of the Company. The Chairperson of the Board of Trustees shall be a trustee; the other officers may be trustees.

SECTION 4.02. Chief Executive Officer. The Chief Executive Officer, if one be designated by the Board of Trustees, shall have general supervision of the business and affairs of the Company. They may execute any deed, mortgage, bond, contract or other instrument, except in cases where the execution thereof shall be expressly delegated by the Board of Trustees or by these By-Laws to some other officer or agent of the Company or shall be required by law to be otherwise executed; and in general shall perform all duties incident to the office of Chief Executive Officer and such other duties as may be prescribed by the Board of Trustees from time to time. In the absence of any designation by the Board of Trustees, the Chairperson of the Board of Trustees, if there be one, shall serve as Chief Executive Officer. In the absence of the Chairperson of the Board of Trustees, or if there be none, the President shall be the Chief Executive Officer. The same person may hold both offices of President and Chief Executive Officer.

SECTION 4.03. Chief Operating Officer. The Chief Operating Officer, if one be designated by the Board of Trustees, shall have supervision of the operations of the Company and the responsibilities and duties set forth by the Board of Trustees or the Chief Executive Officer. In the absence of any designation by the Board of Trustees, the President shall serve as Chief Operating Officer.

SECTION 4.04. Chief Financial Officer. The Board of Trustees may designate a Chief Financial Officer. The Chief Financial Officer shall have the responsibilities and duties as set forth by the Board of Trustees or the Chief Executive Officer.

SECTION 4.05. Chief Information Officer. The Board of Trustees may designate a Chief Information Officer. The Chief Information Officer shall have the responsibilities and duties as set forth by the Board of Trustees or the Chief Executive Officer.

SECTION 4.06. Chief Accounting Officer. The Board of Trustees may designate a Chief Accounting Officer. The Chief Accounting Officer shall have the responsibilities and duties as set forth by the Board of Trustees or the Chief Executive Officer.

SECTION 4.07. Chairperson of the Board of Trustees. The Chairperson of the Board of Trustees, if one be elected, shall preside at all meetings of the Board of Trustees and of the shareholders at which they shall be present. Unless otherwise specified by the Board of Trustees, they shall be the chief executive officer of the Company and perform the duties customarily performed by chief executive officers, and may perform any duties of the President. In general, they shall perform all such duties as are from time to time assigned to them by the Board of Trustees.

SECTION 4.08. President. Unless otherwise provided by resolution of the Board of Trustees, the President, in the absence of the Chairperson of the Board of Trustees, shall preside at all meetings of the Board of Trustees and of the shareholders at which they shall be present. Unless otherwise specified by the Board of Trustees, the President shall be the chief operating officer of the Company and perform the duties customarily performed by chief operating officers. they may sign and execute, in the name of the Company, all authorized deeds, mortgages, bonds, contracts or other instruments, except in cases in which the signing and execution thereof shall have been expressly delegated to some other officer or agent of the Company. In general, they shall perform such other duties usually performed by a president of a Company and such other duties as are from time to time assigned to them by the Board of Trustees or the chief executive officer of the Company.

SECTION 4.09. Vice-Presidents. The Vice-President or Vice-Presidents, at the request of the chief executive officer or the President, or in the President's absence or during their inability to act, shall perform the duties and exercise the functions of the President, and when so acting shall have the powers of the President. If there be more than one Vice-President, the Board of Trustees may determine which one or more of the Vice-Presidents shall perform any of such duties or exercise any of such functions, or if such determination is not made by the Board of Trustees, the chief executive officer, or the President may make such determination; otherwise any of the Vice-Presidents may perform any of such duties or exercise any of such functions. The Vice-President or Vice-Presidents shall have such other powers and perform such other duties, and have such additional descriptive designations in their titles (if any), as are from time to time assigned to them by the Board of Trustees, the chief executive officer, or the President.

SECTION 4.10. Secretary. The Secretary shall keep the minutes of the meetings of the shareholders, of the Board of Trustees and of any committees, in books provided for the purpose; they shall see that all notices are duly given in accordance with the provisions of these By-Laws or as required by law; they shall be custodian of the records of the Company; they may witness any document on behalf of the Company, the execution of which is duly authorized, see that the corporate seal is affixed where such document is required or desired to be under its seal, and, when so affixed, may attest the same; and, in general, they shall perform all duties incident to the office of a secretary of a Company, and such other duties as are from time to time assigned to them by the Board of Trustees, the chief executive officer or the President.

SECTION 4.11. Treasurer. The Treasurer shall have charge of and be responsible for all funds, securities, receipts and disbursements of the Company, and shall deposit, or cause to be deposited, in the name of the Company, all moneys or other valuable effects in such banks, trust companies or other depositories as shall, from time to time, be selected by the Board of Trustees; they shall render to the President and to the Board of Trustees, whenever requested, an account of the financial condition of the Company; and, in general, they shall perform all the duties incident to the office of a treasurer of a Company, and such other duties as are from time to time assigned to them by the Board of Trustees, the chief executive officer, or the President. The Treasurer shall also be the Chief Financial Officer of the Company.

SECTION 4.12. Assistant and Subordinate Officers. The assistant and subordinate officers of the Company are all officer below the office of Vice-President, Secretary or Treasurer. The assistant or subordinate officers shall have such duties as are from time to time assigned to them by the Board of Trustees, the chief executive officer, or the President.

SECTION 4.13. Election; Tenure and Removal of Officers. The Board of Trustees shall elect the officers. The Board of Trustees may from time to time authorize any committee or officer to appoint assistant and subordinate officers. Election or appointment of an officer, employee or agent shall not of itself create contract rights. All officers shall be appointed to hold their offices, respectively, at the pleasure of the Board of Trustees. The Board of Trustees (or, as to any assistant or subordinate officer, any committee or officer authorized by the Board of Trustees) may remove an officer at any time. The removal of an officer does not prejudice any of their contract rights. The Board of Trustees (or, as to any assistant

or subordinate officer, any committee or officer authorized by the Board of Trustees) may fill a vacancy which occurs in any office for the unexpired portion of the term.

SECTION 4.14. Compensation. The Board of Trustees shall have power to fix the salaries and other compensation and remuneration, of whatever kind, of all officers of the Company. No officer shall be prevented from receiving such salary by reason of the fact that they are also a trustee of the Company. The Board of Trustees may authorize any committee or officer, upon whom the power of appointing assistant and subordinate officers may have been conferred, to fix the salaries, compensation and remuneration of such assistant and subordinate officers.

ARTICLE V. DIVISIONAL TITLES

SECTION 5.01. Conferring Divisional Titles. The Board of Trustees may from time to time confer upon any employee of a division of the Company the title of President, Vice President, Treasurer or Secretary of such division or any other title or titles deemed appropriate, or may authorize the Chairperson of the Board of Trustees or the President to do so. Any such titles so conferred may be discontinued and withdrawn at any time by the Board of Trustees, or by the Chairperson of the Board of Trustees or the President if so authorized by the Board of Trustees. Any employee of a division designated by such a divisional title shall have the powers and duties with respect to such division as shall be prescribed by the Board of Trustees, the Chairperson of the Board of Trustees or the President.

SECTION 5.02. Effect of Divisional Titles. The conferring of divisional titles shall not create an office of the Company under Article IV unless specifically designated as such by the Board of Trustees; but any person who is an officer of the Company may also have a divisional title.

ARTICLE VI. BENEFICIAL INTEREST

SECTION 6.01. Certificates for Beneficial Interest. The Board of Trustees may determine to issue certificated or uncertificated shares of beneficial interest and other securities of the Company. For certificated shares of beneficial interest, each shareholder is entitled to certificates which represent and certify the shares of beneficial interest the shareholder holds in the Company. Each certificate (a) shall be in such form, not inconsistent with law or with the Declaration of Trust, as shall be approved by the Board of Trustees or any officer or officers designated for such purpose by resolution of the Board of Trustees, (b) shall include on its face the name of the Company, the name of the shareholder or other person to whom it is issued, and the class of shares of beneficial interest and number of shares of beneficial interest it represents, (c) shall be signed by the Chairperson of the Board of Trustees, the President, or a Vice-President, and countersigned by the Secretary, an Assistant Secretary, the Treasurer, or an Assistant Treasurer, (d) may be sealed with the actual seal of the Company or a facsimile of it or in any other form and signatures may be either manual or facsimile signatures. Each certificate shall also include on its face or back (a) a statement of any restrictions on transferability and a statement of the designations and any preferences, conversion and other rights, voting powers, restrictions, limitations as to dividends, qualifications, and terms and conditions of redemption of the shares of beneficial interest of each class which the Company is authorized to issue, of the differences in the relative rights and preferences between the shares of beneficial interest of each series of a preferred or special class in a series which the Company is authorized to issue, to the extent they have been set, and of the authority of the Board of Trustees to set the relative rights and preferences of subsequent series of a preferred or special class of shares of beneficial interest or (b) a statement which provides in substance that the Company will furnish a full statement of such information to any shareholder on request and without charge.

Such request may be made to the Secretary or to the transfer agent for the shares of beneficial interest. Except as provided in the Maryland Uniform Commercial Code - Investment Securities, the fact that a certificate does not contain or refer to a restriction on transferability that is adopted after the date of issuance does not mean that the restriction is invalid or unenforceable. A certificate is valid and may be issued whether or not an officer who signed it is still an officer when it is issued. A certificate may not be issued until the shares of beneficial interest represented by it are fully paid. Upon the issuance of uncertificated shares of beneficial interest, the Company shall send the shareholder a written statement of the same information required above on the certificate and by the Maryland Uniform Commercial Code - Investment Securities.

SECTION 6.02. Transfers. The Board of Trustees shall have power and authority to make such rules and regulations as it may deem expedient concerning the issue, transfer and registration of certificates of beneficial interest; and may appoint transfer agents and registrars thereof. The duties of transfer agent and registrar may be combined.

SECTION 6.03. Fixing of Record Date. The Board of Trustees may set a record date for the purpose of making any proper determination with respect to shareholders, including which shareholders are entitled to notice of a meeting, vote at a meeting, receive a dividend or be allotted other rights. Such record date, in any case, shall not be prior to the close of business on the day the record date is fixed and shall be not more than 90 days and, in the case of a meeting of shareholders, not less than ten days, before the date on which the meeting or particular action requiring such determination of shareholders of record is to be held or taken. When a record date for the determination of shareholders entitled to notice of or to vote at any meeting of shareholders has been set as provided in this section, such record date shall continue to apply to the meeting if postponed or adjourned, except if the meeting is postponed or adjourned to a date more than 120 days after the record date originally fixed for the meeting, in which case a new record date for such meeting shall be determined as set forth herein.

SECTION 6.04. Beneficial Interest Ledger. The Company shall maintain a beneficial interest ledger which contains the name and address of each shareholder and the number of shares of beneficial interest of each class which the shareholder holds. The beneficial interest ledger may be in written form or in any other form which can be converted within a reasonable time into written form for visual inspection. The original or a duplicate of the beneficial interest ledger shall be kept at the offices of a transfer agent for the particular class of beneficial interest, or, if none, at the principal office in the State of Maryland or the principal executive offices of the Company.

SECTION 6.05. Certification of Beneficial Owners. The Board of Trustees may adopt by resolution a procedure by which a shareholder of the Company may certify in writing to the Company that any shares of beneficial interest registered in the name of the shareholder are held for the account of a specified person other than the shareholder. The resolution shall set forth the class of shareholders who may certify; the purpose for which the certification may be made; the form of certification and the information to be contained in it; if the certification is with respect to a record date or closing of the beneficial interest transfer books, the time after the record date or closing of the beneficial interest transfer books within which the certification must be received by the Company; and any other provisions with respect to the procedure which the Board of Trustees considers necessary or desirable. On receipt of a certification which complies with the procedure adopted by the Board of Trustees in accordance with this Section, the person specified in the certification is, for the purpose set forth in the certification, the holder of record of the specified beneficial interest in place of the shareholder who makes the certification.

SECTION 6.06. Lost Beneficial Interest Certificates. The Board of Trustees of the Company may determine the conditions for issuing a new beneficial interest certificate in place of one which is alleged to have been lost, stolen, or destroyed, or the Board of Trustees may delegate such power to any officer or officers of the Company. In their discretion, the Board of Trustees or such officer or officers may refuse to issue such new certificate save upon order of some court having jurisdiction in the premises.

ARTICLE VII. FINANCE

SECTION 7.01. Checks, Drafts, Etc. All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Company shall be signed by such officer or agent of the Company in such manner as shall from time to time be determined by the Board of Trustees.

SECTION 7.02. Annual Statement of Affairs. The President or chief accounting officer shall prepare annually a full and correct statement of the affairs of the Company, to include a balance sheet and a financial statement of operations for the preceding fiscal year. The statement of affairs shall be submitted at the annual meeting of the shareholders and, within 20 days after the meeting, placed on file at the Company's principal.

SECTION 7.03. Fiscal Year. The fiscal year of the Company shall be the twelve calendar months ending December 31 in each year, unless otherwise provided by the Board of Trustees.

SECTION 7.04. Dividends. If declared by the Board of Trustees at any meeting thereof, the Company may pay dividends on its shares in cash, property, or in shares of the capital beneficial interest of the Company, unless such dividend is contrary to law or to a restriction contained in the Declaration of Trust.

SECTION 7.05. Contracts. To the extent permitted by applicable law, and except as otherwise prescribed by the Declaration of Trust or these By-Laws with respect to certificates for shares, the Board of Trustees may authorize any officer, employee, or agent of the Company to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Company. Such authority may be general or confined to specific instances.

ARTICLE VIII. INDEMNIFICATION

SECTION 8.01. Procedure. Any indemnification, or payment of expenses in advance of the final disposition of any proceeding, shall be made promptly, and in any event within 60 days, upon the written request of the trustee or officer entitled to seek indemnification (the "Indemnified Party"). The right to indemnification and advances hereunder shall be enforceable by the Indemnified Party in any court of competent jurisdiction, if (i) the Company denies such request, in whole or in part, or (ii) no disposition thereof is made within 60 days. The Indemnified Party's costs and expenses incurred in connection with successfully establishing their right to indemnification, in whole or in part, in any such action shall also be reimbursed by the Company. It shall be a defense to any action for advance of expenses that (a) a determination has been made that the facts then known to those making the determination would preclude indemnification or (b) the Company has not received either (i) an undertaking as required by law to repay such advances in the event it shall ultimately be determined that the standard of conduct has not been met or (ii) a written affirmation by the Indemnified Party of such Indemnified Party's good faith belief that the standard of conduct necessary for indemnification by the Company has been met.

SECTION 8.02. Exclusivity; Etc. The indemnification and advance of expenses provided by the Declaration of Trust and these By-Laws shall not be deemed exclusive of any other rights to which a person seeking indemnification or advance of expenses may be entitled under any law (common or statutory), or any agreement, vote of shareholders or disinterested trustees or other provision that is consistent with law, both as to action in their official capacity and as to action in another capacity while holding office or while employed by or acting as agent for the Company, shall continue in respect of all events occurring while a person was a trustee or officer after such person has ceased to be a trustee or officer, and shall inure to the benefit of the estate, heirs, executors and administrators of such person. All rights to indemnification and advance of expenses under the Declaration of Trust of the Company and hereunder shall be deemed to be a contract between the Company and each trustee or officer of the Company who serves or served in such capacity at any time while this By-Law is in effect. Nothing herein shall prevent the amendment of this By-Law, provided that no such amendment shall diminish the rights of any person hereunder with respect to events occurring or claims made before its adoption or as to claims made after its adoption in respect of events occurring before its adoption. Any repeal or modification of this By-Law shall not in any way diminish any rights to indemnification or advance of expenses of such trustee or officer or the obligations of the Company arising hereunder with respect to events occurring, or claims made, while this By-Law or any provision hereof is in force.

SECTION 8.03. Severability; Definitions. The invalidity or unenforceability of any provision of this Article VIII shall not affect the validity or enforceability of any other provision hereof. The phrase "this By-Law" in this Article VIII means this Article VIII in its entirety.

ARTICLE IX. SUNDRY PROVISIONS

SECTION 9.01. Books and Records. The Company shall keep correct and complete books and records of its accounts and transactions and minutes of the proceedings of its shareholders and Board of Trustees and of any committee when exercising any of the powers of the Board of Trustees. The books and records of a Company may be in written form or in any other form which can be converted within a

reasonable time into written form for visual inspection. Minutes shall be recorded in written form but may be maintained in the form of a reproduction. The original or a certified copy of these By-Laws shall be kept at the principal office of the Company.

SECTION 9.02. Corporate Seal. The Board of Trustees shall provide a suitable seal, bearing the name of the Company, which shall be in the charge of the Secretary. The Board of Trustees may authorize one or more duplicate seals and provide for the custody thereof. If the Company is required to place its corporate seal to a document, it is sufficient to meet the requirement of any law, rule, or regulation relating to a corporate seal to place the word "Seal" adjacent to the signature of the person authorized to sign the document on behalf of the Company.

SECTION 9.03. Bonds. The Board of Trustees may require any officer, agent or employee of the Company to give a bond to the Company, conditioned upon the faithful discharge of their duties, with one or more sureties and in such amount as may be satisfactory to the Board of Trustees.

SECTION 9.04. Voting Upon Shares in Other Companies. Beneficial interest of other Companies or associations, registered in the name of the Company, may be voted by the President, a Vice-President, or a proxy appointed by either of them. The Board of Trustees, however, may by resolution appoint some other person to vote such shares, in which case such person shall be entitled to vote such shares upon the production of a certified copy of such resolution.

SECTION 9.05. Mail. Any notice or other document which is required by these By-Laws to be mailed shall be deposited in the United States mails, postage prepaid.

SECTION 9.06. Execution of Documents. A person who holds more than one office in the Company may not act in more than one capacity to execute, acknowledge, or verify an instrument required by law to be executed, acknowledged, or verified by more than one officer.

SECTION 9.07. Amendments. Subject to the special provisions of Section 2.02, in accordance with the Declaration of Trust, these By-Laws may be repealed, altered, amended or rescinded (a) by the shareholders of the Company only by vote of not less than 80% of the outstanding shares of beneficial interest of the Company entitled to vote generally in the election of trustees (considered for this purpose as one class) cast at any meeting of the shareholders called for that purpose (provided that notice of such proposed repeal, alteration, amendment or rescission is included in the notice of such meeting) or (b) by vote of two-thirds of the Board of Trustees at a meeting held in accordance with the provisions of these By-Laws.

**CERTIFICATION
PURSUANT TO SECTION 302 OF
THE SARBANES-OXLEY ACT OF 2002**

I, T. Wilson Eglin, certify that:

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

November 3, 2022

/s/ T. Wilson Eglin

T. Wilson Eglin
Chief Executive Officer

**CERTIFICATION
PURSUANT TO SECTION 302 OF
THE SARBANES-OXLEY ACT OF 2002**

I, Beth Boulerice, certify that:

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

November 3, 2022

/s/ Beth Boulerice

Beth Boulerice
Chief Financial Officer

**CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Quarterly Report of LXP Industrial Trust (“the Company”) on Form 10-Q for the period ended September 30, 2022 as filed with the Securities and Exchange Commission on the date hereof, I, T. Wilson Eglin, Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

- (1) The Quarterly Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) The information contained in the Quarterly Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ T. Wilson Eglin

T. Wilson Eglin
Chief Executive Officer
November 3, 2022

**CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Quarterly Report of LXP Industrial Trust (“the Company”) on Form 10-Q for the period ended September 30, 2022 as filed with the Securities and Exchange Commission on the date hereof, I, Beth Boulерice, Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

- (1) The Quarterly Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) The information contained in the Quarterly Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ Beth Boulерice

Beth Boulерice

Chief Financial Officer

November 3, 2022