ORRICK - NEW YORK

Moderator: Alison Radecki
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10:04 a.m. CT

OPERATOR: This is Conference #: 850074027R.

Susan Henshaw Jones: And I would like to call the meeting to order. And I would like now to turn it over to Anne Rabbino to continue – to begin the agenda.

Anne Adams Rabbino: Thank you. Who just joined?

Krishna Omolade: This is Krishna. My apologies for running late.

Anne Adams Rabbino: That's fine, Krishna. We're just starting.

So this meeting is taking place entirely by telephone pursuant to Governor Cuomo's Executive Order dated March 12th, which has been extended due to the continued COVID-19 pandemic. This order permits compliance with the Open Meetings Law when a meeting is held by telephone with no physical place for the meeting if the public is allowed to dial-in.

The dial-in information for this meeting was made public. Is anyone on the line who has not already been identified?

Okay. This telephone call is being recorded and will be transcribed as required by Governor Cuomo's Executive Order. When you begin to speak, please identify yourself by first and last name so we can end up with a clear transcript.

Turning to the business of the meeting, the first item on the agenda is the presentation regarding the proposed refunding bonds for the benefit of the Whitney Museum of American Art. The board is also meeting for this purpose as the Finance Committee in order to comply with state law.

Virginia Wong, a partner at Nixon Peabody, special financing counsel to the Whitney, will begin the presentation and introduce the other speakers.

Virginia Wong: Good morning everyone. Thank you very much for your time today and for considering this financing for the Whitney Museum of American Art.

On the line from the Whitney are I.D. Aruede, Nick Holmes, and Sunil – I'm sorry, Sunil, I just forgot your last name. It just …

Sunil Chaddha: Chaddha.

Virginia Wong: Chaddha, sorry, from the Whitney, and they are prepared to give a brief overview of the Whitney and its operations.

I.D., do you want to get started on that?

I.D. Aruede: Absolutely, happy to. And my name is I.D. Aruede. As Anne introduced early on and not sure if everyone was on at the time, I am co-Chief Operating Officer and Chief Financial Officer at the Whitney Museum of American Art. And I want to echo Virginia's thanks for the board's time this morning. We very much appreciate it.

I'm happy to run through the presentation that was shared with you all in advance. We realized we sent you a lot of material, so we will not necessarily – and I do not plan to go through every slide, but would love very much to talk through the things that we think are relevant and salient, and certainly take your questions, and make sure we touch on what's important to the board.

So I'm happy to flip through the presentation that you have. I believe that Eric from Morgan Stanley will start off on just giving an overview of the summary of financing on Page 3 of the presentation.

Eric Wild: Great. Thank you, I.D.

Yes, this is Eric Wild with Morgan Stanley and we're pleased to be part of the financing. Thank you for the consideration of it.

Looking at Page 3, the structure here of the financing is identified in a summary format. We're anticipating a bond par amount of approximately $77 million. It will be designated as a green bond. And this, to our knowledge, is the first issuance of green bonds by a museum. The green bond market is very large, but this will be the first time a museum has done that.

We expect to price the bonds next week, the week of the 14th. That would be our plan. And close the first full week of January, on or about January 7th is our timeframe.

Just last week we got the ratings affirmed by both Fitch and S&P of AA from Fitch, and that has a stable outlook, and A+ from S&P, and that has a negative outlook. And you may recall that S&P assigned negative outlooks to most of the not-for-profit or at least the cultural sector several months back as part of their review under the – under COVID review.

The securities for the bonds to the market is a general unsecured obligation, similar to what we've done in – on the first 2011 bonds. And we expect to have a single maturity in – on July 1, 2031.

And as Virginia and I.D. said, the purpose here is to refinance the $100 million outstanding of the Museum's Series 2011 bonds and to fund costs of issuance. The difference for the – by the par is going down so much as we expect to issue these bonds with significant original issue premium and, therefore, we won't need $100 million to refund the $100 million.

Joining on the – joining the syndicate with us are Siebert Williams Shank and Wells Fargo.

I.D., I'll turn this presentation back to you.

I.D. Aruede: Great. Thank you, thank you, Eric.

So I'll pick up where you left off, and unless there are any questions, let's run through the rest of the presentation. I should say, by way of background also, I think it's pertinent we worked with the Trust as you all likely know on our inaugural issue of bonds 10 years ago at this point, and I was involved not as – I was in the same role then, but I was involved in that transaction on the Whitney side about 10 years ago as well, and we've had sort of a really great working relationship with the Trust since then. And so much has changed for the Whitney.

In that period of time, clearly, we realized our dream and our vision of a new building downtown, which that initial transaction helped us to realize, helped to finance. And at this point, we've been in our new location for five plus years and have realized I think much more positive operating results and financial results than any of us expected the time. So we're enormously grateful. And much of the financial results and outlook that you'll see now and the projections are really thanks to the initial financing that happened 10 years ago.

Just going through the presentation that we sent you, I will touch a little bit on the – on the history of our institution. No need to go in-depth here, but I do think it's a little bit pertinent.

The Whitney's – the Whitney is the only major art museum in New York City devoted exclusively to the art of the United States through American art, we believe, puts us in a particularly relevant and critical position, we're all about American artists, art created in the United States, and that's been our history for the last 90 years. And it's what we focus on and it's what really this project was about. It was about supporting American artists in all the ways that they are working today.

On Page 4, I do want to talk a little bit about our finances and our balance sheets. We talk about cash and investments of $525 million unaudited numbers as of September 30. A majority of that, obviously, is attributable to the Museum's endowment. The Museum's endowment was prior to our last campaign just a little over $100 million. The last campaign, of which the project to construct this new building was a part, really was a significant driver in helping grow the Museum's endowment portfolio and cash and investments on the balance sheet as we see it. So $525 million in cash and investments also relative to the type of financing, at this point, which we anticipate at a par value of about $77 million, give or take.

Moving to Page 5, just also a little bit of history on the history of consistent growth and consistent growth in our ability to deliver on our mission, the Museum was founded – was established by Gertrude Vanderbilt Whitney originally with about 600 works of art in our collection, donated primarily by Mrs. Whitney.

That collection has grown to 25,000 objects, paintings, sculptures, prints, drawings, photographs, films, video, new media, and much more. And the growth in that collection was certainly a growth in objects and a growth in what we're charged to be stewards of is also reflect a growth in relationships with donors who are invested in the future and the stability of the institution. Much of that has come from purchases, but a lot of that has also come from gifts and donations from prominent collectors across the United States and indeed across the world.

And that collection continues to grow today, thanks to the partnership of organizations like the Luce Foundation who recently gave the Museum a grant to develop a strategic plan for our collection. The collection underpins much of what we do and who we are, even though it is not featured in terms of value on our balance sheet.

Moving to Page 6, I will just say as many of you may know, the Whitney has a robust program of special exhibitions and temporary exhibitions, as the case may be. One of which – a flagship of which is the Whitney Biennial, which occurs every two years and is really the preeminent survey of American art. And as they often say, if you want to know what's going on in American art in United States, you attend the Whitney Biennial. But we also have a range temporary exhibitions supporting both well-known names in American art, like Andy Warhol and Jasper Johns, and names you would recognize to up and coming – emerging artists whose work the Museum supports before they become household names.

I will also say that in the time since we moved to a new building downtown, we've invested in and spent time in being a partner in the community, being – creating relationships in our new community as part of New York City, our immediate community is certainly the neighborhood in which we sit in the Meatpacking District at the nexus of Greenwich Village, the West Village and Chelsea.

We're very much a museum in New York for New Yorkers. And as a part of that commitment in partnership with the Museum, as you may have read, in collaboration with the Hudson River Park Trust, is developing a permanent public art project by David Hammons, who's one of probably the preeminent African-American artists in the country. And the public sculpture will be located in the Hudson River Park, which we expect will be quite finished and unveiled in the spring of 2021.

Just another way the Museum continues to develop and deepen its relationships with the community, and find ways to give back.

Skipping to Page 7, educational programs, certainly, when we all think about museums we think of the exhibitions and programs that you see in the galleries, but there's much we do that happens outside of our gallery. Certainly, we run a range of education programs for K-12 students in New York City, for families, for students, for seniors and so on, and granted we're all in a – an unprecedented public health environments right now, which we'll talk about it in more detail in a little bit. But those programs continue virtually and are continued virtually during the pandemic.

We currently offer virtual art history and art-making programs for adults. For example, we offer virtual programming for K-12 students. And, in fact, we stepped up the level of programming that we offer following the closure of schools and really the shutdown of the City back in the spring.

On Page 8, it gives an overview of our facilities. Our main building at 99 Gansevoort Street in the Meatpacking District is the project essentially that was financed by these bonds originally in 2011. That's obviously the sort of the jewel in our – in our – in our physical facilities. We also do own now the Breuer building, which was the Museum's former location on the Upper East Side of Manhattan. I won't go into many details here, but specifically, those facilities are included on Page 8.

Now moving to Page 9, which I imagine is one all of us are curious about and have questions about is sort of that question of what is it like to run an art museum in the time of COVID, and what does that mean operationally and financially?

So the Museum, like every other arts and cultural institution, well, certainly we have an art museum in the City closed down based on the City's emergency order in the middle of March of

2019. We have since – we have been open or reopened since early September, and we've been open with a lot of the safety precautions and protocols that you've come to expect.

The Whitney actually took the lead on convening a coalition or working group of New York City arts and museums to develop a common set of operating protocols of health and safety protocols for our reopening. And it's a slate protocols to each – most museums, if not all museums in the City, essentially adhere.

And I will say what's remarkable since we opened and you'll see all the things that you expect, which is contactless entry, timed ticketing for all, and advanced planning required for all visitors, temperature checks, lots of signage, frequent cleaning and sanitization – all those things that are important certainly for the public health – from a public health perspective, but also really important for building visitor and consumer confidence in what we offer, which we know really is that public trust and confidence is really at the crux of who we are, our ability to deliver on our mission, and also our ability to meet our financial goals and objectives in the long-term, including meeting our debt obligations.

Just in terms of what shifted since we reopened, really interestingly, I mentioned earlier that the Museum is – we always thought of it as a museum – a New York museum, first and foremost, for New Yorkers, and that has never been more true than now.

About 75% of our visitors, since we reopened in September, are from New York City. We've always depended a little bit less on tourists than a number of our peers, but we're really seeing that sea change now, and we're glad that we are prepared for it and we're here for New Yorkers. About 85% of our visitors come from New York City and the surrounding tri-state area, so really very local at this – at this point in time.

We're also fortunate and that, clearly, we're at 25% capacity maximum by state order. From a health and safety perspective, that actually makes sense. It's the right thing to do.

From a revenue point of view, it's clear that has implications for us. And this is where we're fortunate that we're – we have diversified revenue sources. We certainly are dependent on audiences and attendance, but we've got even with – even with our audiences, we've got a robust membership program, which reflects or includes members who have a long-standing relationship with the – with the Whitney Museum and who are loyal, who we've retained at exceedingly high levels, who provided diversified source of audience revenues. And our members come overwhelmingly from New York City, from all five boroughs, especially Manhattan and Brooklyn.

We also – speaking of the impact of COVID – are fortunate to be in a neighborhood that is highly residential and highly – with such a local reach for our programs. So it'll be 75% of our audiences are all coming from New York City, many are coming from just a few blocks away, and largely within walking distance. And so in that sense, we're functioning as a neighborhood and as a community museum. And we're fortunate that our programs, our building, our physical facilities and our orientation of safety protocols allow us to operate effectively as a neighborhood museum.

We've also, no surprise, taken significant steps since the start of the pandemic to rationalize our cost structure to ensure long-term financial sustainability. So that includes limiting discretionary spending, reducing our fixed cost overhead, including a reduction – some reduction in staffing in the – in the springtime, and also launching dedicated fundraising efforts driven really at the behest and – of our board to help plug the financial gaps created by our temporary closure over the summer – over the spring and summer.

Page 10 just gives an overview of many of the operating protocols for health and safety that we've put in place, which I've talked about. I mentioned the requirements of face coverings, temperature screenings, ensuring physical distancing, frequent and thorough sanitizing and cleaning measures, and so on. We're fortunate that in the time since we've been opened, we've had tens of thousands of visitors who come to the Museum visit safely with no incidence and no health and safety breaches to our knowledge.

The Museum continues to rely on a robust program of fundraising and philanthropy. That was true prior to the pandemic and remains true to date.

In fiscal 2020, our fiscal year that ended on June 30th of 2020, so well after the pandemic was underway, we generated nearly $11.5 million in contributions, grants and requests versus $13 million the year before. So I say that to show that fundraising and giving remain resilient, in part because we have a long-tenured and dedicated board for whom many of those gifts come, not exclusively but certainly for whom many of those gifts come, including a specific fund that was raised to provide COVID relief, which raised nearly $4 million in the weeks after we closed to the public.

Skipping to Page 11, our financial position, no surprise respecting – given we did not we open until early September and have remained at 25% capacity, our projections – based on our projections, we expect that will remain actually 25% capacity for some time to come.

And perhaps even on a – on an extended basis, some form of capacity constraints, we expect that we will show an operating deficit this fiscal year, but we feel good about our ability to recover when the public health crisis ends, in part to – in part thanks to a number of the competitive advantages I have outlined earlier, including our very local, very loyal visitor base, our location in a neighborhood that is thriving and seeing enormous amounts of investments, both commercial and residential investments, not to mention public arts projects like the Hammons sculpture that I talked about, as well as Little Island, which is a public park being constructed just north of our sculpture in the Hudson River as well.

In terms of our capital program, we've had no meaningful impact to our capital program so far, reinvestments in our current physical facilities. Clearly, over the last 10 years especially, we've grown the strength of our balance sheet, which allows us to be proactive, strategic and intentional in terms of investing in our physical facilities, both maintenance and upkeep. We realized that our program really is highly dependent on – in normal times, highly dependent on the state of our physical facilities, which really drove the big campaign we had most recently. We have to work on and develop a 25-year facility master plan and we continue to meet all the requirements of that plan today.

On Page 12 is a summary of our – of our operating results for the last five years, so the five years we've been in this new location showing, I think, robust and consistent growth. We've operated within a relatively manageable and narrowband very intentionally. One of the things we take very seriously is managing the volatility of operating results.

We are exposed to some level of volatility due to the nature of our exhibition program. And depending on what the exhibition calendar looks like in a given year, we do plan and expect to see volatility in both operating revenues and expenses.

The work we do though is making sure that that volatility happens within a manageable range. You will see that we've averaged about $61 million in operating revenues over the last five years with one noticeable outlier in 2019 where we generated almost $70 million in operating revenues, thanks to the Andy Warhol exhibition, which proved to be extremely popular, and that was certainly good on the upside. But even in the years where we don't have an Andy Warhol show on the calendar, we do watch very closely to ensure that we can manage the variability in operating revenues and expenses.

Over the last five years, we have reported an excess of revenues over expenses in the aggregate of north of $10 million. And that is sort of the foundation of how we try to plan financially. And we, at this point, expect it to revert to that sort of range once we get through the current public health crisis.

On Page 13, the only point I would make here is to say that, as I mentioned earlier, we have a diversified slate of revenue sources, which we manage as a portfolio. They don't all move concurrently between the audience and visitor-driven revenues, contributions, and fundraising, and our endowments. We – and our professionals managing endowments, I should say, we try to sort of balance that portfolio on an annual basis to get us to the operating results needed to deliver on our mission.

On Page 14, I promise I will stop talking shortly. It's like I've been going nonstop. On page 14, it's just an outlook – our outlook for fiscal year 2021. The Museum has a July 1 to June 30 fiscal year. And clearly, we're expecting some significant impact to revenues from the impact of the pandemic. In fact, as soon as we closed down in March, we did two things. The first was begin to plan for being able to open in a – in a safe way for the health and safety of our staff at whatever point we're allowed to reopen, which are – that work right away. And I talked about the task force we convened of 25 museums across New York.

But the other thing we tried to do right away was begin to analyze and try to project the financial impact of the crisis and plan for our projections and forecast for future years. We engaged the Boston Consulting Group to work with closely with us in our projections. And we are budgeting revenues of $49.2 million in fiscal year 2021, down from $58.6 million the prior year, so a significant decline.

Certainly, no surprise. And that embeds a number of assumptions around the nature and extent of the disruption caused by the pandemic, the length of time it will take for visitors to eventually return to the Museum with no capacity constraints, when consumer confidence will return, when tourism to New York City will begin to return, and so on.

I was taking a pretty clear-eyed view as to what that might look like and plan for decline in revenues. But as I said, the diversification of our – of our resources and our ability to control expenses, we believe, are strengths in this environment, as well as those really loyal and sticky portions of our revenue, including our membership program, as well as our endowments, which provides a steady stream of returns on an inflation-adjusted basis.

Page 15 gives a sense of attendance and admissions. We've averaged about a million – a little over a million visitors a year over the last five years, which is wonderful, prior to – at the time we issued our inaugural financing 10 years ago, we were doing about 350,000 visitors a year. We're up to 1 million – over 1 million in certain cases here, so significant – not just growth but transformation over the last financing period. And that has translated obviously into significant growth in revenues as well as competitive pricing relative to a peer group.

About 56% of our attendance comes from paid visitation, so ticket buyers, with the remainder coming from complimentary admissions, certainly, our members but also free to anyone who is age 18 and under, which means that young people get to visit the Museum free at all times, which is something we're particularly proud of. And we're glad that we've been able to preserve that even as our total attendance has grown and as our cost structure has grown as well.

Membership, a relatively similar story, we look at the membership program as a measure of loyalty and audience engagements. We look at our audiences from a first time visitor, to repeat visitor, to hopefully a member, and eventually some of them become a loyal supporter – a loyal long-term supporter of the Museum.

When we did our initial financing in 2011, we had a 12,000-member program. We've – we're now well over 50,000 members, so again transformational both in terms of audience engagements and visibility of our programs and exhibitions, but also certainly in terms of revenues as you'll see at the bottom of this page.

Fundraising, an area we feel particularly fortunate about and great about is continuous giving to the Museum. And I always say that fundraising is – you see the numbers on the page, but each of those dollars represents a relationship or relationships with donor. Whether that's an individual, a corporation, or a foundation or a member of our board, fundraising has remained strong.

And the five years we see on this page, on Page 17, all reflect right after our last campaign ended. What you often – what we're often concerned about is that for a major campaign, certainly one of the size that we had that you may – you may get either donor fatigue or an inability to raise operating funding consistently following a campaign, we have not found that to be true.

If anything, I think the last campaign helped us create new relationships, telling stories through the programs and exhibitions that we show. And the fact that we've raised $70 million in contributions and gifts in 2020 really, I think, is a strong indication of that and one we feel underpins the strength of our balance sheet, and the strength of our program, and the ability to continue to meet our obligations as they come due.

On Page 18 of the new revenues, we have a number of additional revenue sources that we get, which is, as I mentioned, the Museum continues to own the Breuer building on the upper east side of Manhattan on 75th Street and Madison Avenue. That building is currently occupied by – well, it was occupied by the Metropolitan. It is now – the Metropolitan has moved out, and the

Frick Collection has moved in pursuant to a sub-agreement – a sub-collaboration agreement with the Met and the Whitney.

That property generates about $3.5 million in annual revenues, which is an important revenue source for us. We continue to own it. We know that the Frick will be in there at least through the summer of 2023. There is interest on the part of the Frick to extend that period of time. We – nothing is affirmed or confirmed yet. We do not know if that will happen.

But we own the building and we have a restriction on it by a major donor of the Museum where pursuant to which we cannot either lease it to a for-profit institution or sell it prior to 2028. But the donor who has that restriction on the property continues to be very engaged with the Whitney, has made many gifts subsequent to that restriction and is in dialogue with us as to what the future of that property could look like. So we feel good about owning what really is a prime asset in Manhattan still.

Our investment philosophy and spending policy of the endowments, we have a professionally managed endowment, which as I mentioned has grown significantly. Certainly, with the situation of the last capital campaign that we had, we added about $225 million in corpus and new gifts to the endowment over that period of time, which is helping support our expanded facilities in this new building and expanded program as well.

The endowment is managed by our Investment Committee, the Investment Committee of our board in conjunction with our professional third party advisor, Monticello Associates. And many of the trustee members of the Investment Committee who are listed on this page are professional asset managers in their own day jobs as well. So we certainly benefited from the stewardship of that group, and as you'll see, our positive and strong returns over the last three, five, seven and 10-year period.

Page 20 shows the asset allocation of our portfolio, pretty diversified portfolio between sort of equities and alternatives, so not atypical at all, generally, broadly, pretty liquid portfolio. You'll see the liquidity schedule on the left-hand side there. And I don't think there's anything that's really changed significantly frankly in the asset allocation between now and when we show 10 years ago.

My colleagues can certainly speak more to this. My colleagues can certainly speak more to this if the board has questions. But we've seen it's been really – I think of a three-legged stool of institution. And with the audiences and our visitors certainly, we generate earned revenues, it's contributions and fund raising as a second leg of that stool, and it's certainly the endowment as the third part of that stool. And all three legs are in a pretty strong condition, at least as strong as they could be given the broader macroeconomic climates that we're operating in right now.

And I think that runs through the entirety of the comments I hope to make. I'm happy to pause for questions. And I know Eric may want to talk through Slide 21 and 22, which just give an overview about our outstanding indebtedness and the plan – the structure of the 2021 financing, as well as the planned transaction schedule to get us to closing.

So thank you very much for your – for your time and for your attention. We're happy to take questions.

Anne Adams Rabbino: Are there any questions at this time?

Leah Johnson: I have, this is Leah Johnson.

Anne Adams Rabbino: Yes.

Leah Johnson: This is terrific. This is Leah Johnson. I just have a quick question. You had mentioned – I was very pleased to see that you have Siebert Williams & Shank as part of your syndicate. Can you – do you know what percentage of the economics of the M/WBE firm will receive in this deal?

I.D. Aruede: Yes, certainly, and maybe I'll let Eric speak to it. I believe right – I don't want to speak inaccurately, I believe – I believe it's about 10%. Is that right, Eric?

Eric Wild: That's accurate, yes, for Siebert, yes.

I.D. Aruede: It's about 10%. And I will say – I mean, and thanks for noticing that and thanks for calling it out. We had never worked with Siebert Williams Shank prior to this. And one of the – two years into being in this new building we embarked on a strategic planning process to lay out the Museum's priorities for the years ahead. And one of the priorities we identified was diversity, equity and inclusion. And for us, as a museum of American art, that means, certainly, I think just about every organization is thinking about it – that should be thinking about at this point.

But for us, in particular, as a museum of American art, it has particular resonance because – I mean, if we are – if our whole mission is premised on the idea of America, what we do and how we work should reflect what America is and certainly what America is today, not what America was 90 years ago when we were founded. And for us what that means is reflecting it in our programs and exhibitions, the artists we show, the artists we collect, and our audiences, the audiences we engaged, in the staff that we hire, in all the work that we do, in our board and so on.

And so it was really important to us at least about this transaction. To include a minority and women-owned business, you have to start somewhere. And Siebert Williams Shank is, as you all know, a highly regarded firm who came very, very well – very highly recommended. And so we're thrilled – this is our first transaction working with them, but certainly one we're very proud of. So thanks for calling that out.

Leah Johnson: And that's terrific, yes, and you've got the M and WBE, so that's duly noted.

I.D. Aruede: Thank you.

Eric Wild: Anne, happy – two more questions, but I'm happy to then cover the last little bit here, but I don't want to take away from the …

Anne Adams Rabbino: Sure.

Eric Wild: … main course, yes.

Anne Adams Rabbino: Sure. Go ahead, Eric.

Eric Wild: Okay, great. Well, we did – on Page 21 had a quick summary of the financing, the refinancing, if you will, too, as I mentioned earlier be on the right of single maturity bond within interest only for up until that time period, too.

I would just essentially extending the principal that we do – coming due in the near-term to a longer-term maturity and taking advantage of the very, very low rates that are available to the Whitney right now, too. So outside of this debt, there's only two other pieces of debt that the Whitney has. One is their line of credit, which is $10 million, of which $5 million is outstanding. That's the Bank – that's with Bank of America. And they also took out a – one of the PPP loans as well for roughly $5.6 million and also – and the Museum has applied for forgiveness of that loan, but as of right now, it has – it hasn't been ruled on. I'm not sure the process that we'll go through.

So we expect – just going to the next page, too, as I mentioned before calendar-wise, we'll commence we mail, hopefully, of the offering document. Really this week we'll commence to take investor one-on-one indications of interest for phone calls later this week and then moving to pricing most likely, I would guess, on Tuesday or Wednesday of next week.

And with that, I'm happy to take any questions about the structure or things come up with anything else they'd like to ask using people.

Susan Henshaw Jones: Are there any further questions?

Krishna Omolade: Hi, this is – this is Krishna Omolade from the EDC. I had a question more about, I guess, the operations, which is that on one of the earlier slides you mentioned that you have had to lay off 79 employees as a result of the pandemic.

I.D. Aruede: Yes.

Krishna Omolade: And I was curious about whether, A, the Museum is providing any type of financial support for those employees who have been laid off? And B – and, obviously, none of us know the future, but whether you anticipate being able to rehire those people over the next year or next couple of years.

I.D. Aruede: That's a – that's a really good question. Thanks, Krishna.

So this – it was a decision made by the Museum with really challenging decision and tough one to make. Prior to that point, I don't think the Museum had had any sort of layoffs of any meaningful size, certainly not in the 11 years that I've been at the Whitney, so it was not taken lightly.

And at the time, what the 79 positions that we had to lay off back in early April, so in the weeks immediately following our closure, was really focused on employees who either just could not do their jobs entirely because we were closed and their positions have always been intended to be temporary or project-based from the very beginning.

It also was – at the time we provided – we offered just around that – actually really ironically had just ramped up hiring in the months before we were forced to close. So we had one of our flagship shows, Vida Americana, open in February and we've ramped up hiring to support that show. And so when we closed down, we had opened to quite a number of people who we only had onboard for not even a month who are on staff. So it was sort of a very specific and very targeted reduction.

We did see your point, understanding we're in a middle of a public health crisis, provide extended healthcare coverage for all of those folks for several months afterwards, I think three to four months of additional healthcare coverage for those folks, and a relatively generous severance package at the time.

And the intention or the hope was that we would be able to rehire once we reopen, and we did do some hiring when we reopened in September. We obviously did not hire everyone who was let go. And because there was so much uncertainty at the time, we didn't promise that we would rehire positions that we lay off not (furloughs), but we have we hired.

And certainly, those who were with the Museum prior clearly were in a great position or better position to be rehired. And so that's sort of the way we've handled it. And it was really – and we also limited it to – we did not let go anyone who had been at the Museum for more than two years. So the entirety of that group was restricted to some very relatively short tenured, not always very short tenured or else be short tenured employees.

Eric Wild: Okay, thank you.

I.D. Aruede: Yes.

Susan Henshaw Jones: Anything further?

Eileen Heitzler: Anne, Susan, it's Eileen. Do you want me to present their resolutions?

Susan Henshaw Jones: Please.

Eileen Heitzler: So the case we have a number of resolutions before you. There's a resolution – authorizing resolution to authorize the issuance of the bonds. As has been said before, the authorization is for up to $110 million worth of bonds, the purpose being to refund the 2011 bonds and pay costs of issuance.

I don't know if other – if board members felt the same way I did, surprised that almost 10 years ago they have issued the bonds for the Museum, but it was and they are currently callable.

The new bonds, like the old, will be fixed rate, as I think Eric had mentioned, the – will be a bullet – the expectation for pricing would be a bullet maturity in 2031, which effectively pushes out the existing 2021 and 2021 to 2030 maturities to 2031.

I think as Eric mentioned as well, there are no reserves, there's no mortgage. It's an unsecured obligation, and we do on other deals as a conduit with the bonds being paid with the loan agreement payments made by the Museum.

We're asking that you adopt a revenue bond resolution. We've drafted a new one for this deal rather than use the one from 10 years ago, so there's a new revenue bond resolution, which does the same thing as the other sets of – series of funds, it provides for the issuance of bonds for defaults, amendments, et cetera.

There's also a series resolution, which authorizes this particular series of bonds, the first under the general resolution, which allows for future series as well, delegates authority to the chair and other officers to determine the final terms of those bonds, again subject to limitations of not more than $110 million at principal, not more than 7% interest rate, not more than 30 years from the original issuance of the bonds. And again the expectation is the maturity will be 2031 and the interest rate will be considerably lower than 7%.

We are – there's a – the authorizing resolution provides for the adoption of the revenue bond resolution and the series resolution. And also just to note, as has been mentioned earlier in the presentation, the bonds will be designated as, quote, "green bonds," and so we are – made a revision to the authorizing resolution and the series resolution to provide for the former name of the bonds to include the green bonds in the name as, I think, I.D. or Eric mentioned the building of a LEED building.

And this is – I think, Eric, you said the first building constructed as a museum to be green.

As the authorizing resolution mentions, again you're authorizing the issuance of the bonds, the adoption of the revenue bond solution and series resolution, the execution and delivery of a loan agreement to the Museum, whereby they will make payments sufficient to pay the debt service on the bonds and other expenses, the bond purchase contract by the Trust to sell the bonds to the underwriting syndicate, the indemnification agreement, preliminary official statement, other related documents including the tax agreement. And because this is a refunding, there will be a letter of instructions directing the refunding and redemption of the bonds.

As mentioned in the authorizing resolution, because this is a refunding, it is a, quote, “Type II” action for purposes of the State Environmental Quality Review Act, so that is – it has no significant environmental impact being a refunding. You ratify the holding by the Trust of a public – of the public hearing that was required by tax law because we are extending the weighted average maturity of the bonds, although not the final maturity, and then authorizing the Chair and the officers to open bank accounts, to take other actions, to certify, and to finalize the terms of the bonds.

I will note that the – as I mentioned before, the hearing that was held, we did receive that as a hearing required in order to receive the Mayor’s TEFRA approval, which we have received, in addition, the – by statute, the City and State Comptrollers must approve the terms of the sale. They have given their preliminary approval in terms of the structure and the issuance, and then they will give their final approval once the sale is completed. And then as I mentioned before, we will make a slight change to the documents that you had received to include the green designation.

Any questions with respect to the documents?

With that, as Anne had mentioned at the beginning, we would like to ask that you adopt things in order to make sure we have – we’ve got the requisite approval. We would need to do a roll call.

So with Anne, I’ll – with that, Anne, I’ll hand it back to you.

Anne Adams Rabbino: Okay. Well, Susan, do you want to ask for a motion and a second, and then I’ll call the roll?

Susan Henshaw Jones: Can we have a motion to approve?

Lynne Sagalyn: So moved, Lynne Sagalyn.

Susan Henshaw Jones: And a second? Second?

Leah Johnson: Second, Leah Johnson.

Susan Henshaw Jones: Okay. Is there anyone – oh, we want to say our name. Is there …

Anne Adams Rabbino: Yes.

Susan Henshaw Jones: … anyone in dissent?

Anne Adams Rabbino: Well, let's just go through the list.

So, Susan, you're in favor.

Susan Henshaw Jones: Yes.

Anne Adams Rabbino: Leah, you're in favor.

Leah Johnson: Yes.

Anne Adams Rabbino: Is that correct? Lynne?

Leah Johnson: Yes, I am in favor.

Anne Adams Rabbino: Lynne, are you in favor?

Lynne Sagalyn: Yes.

Anne Adams Rabbino: Merryl, are you in favor?

Merryl Tisch: Absolutely.

Anne Adams Rabbino: Dawanna, are you in favor?

Dawanna Williams: Yes.

Anne Adams Rabbino: Krishna?

Krishna Omolade: Yes, I'm in favor.

Anne Adams Rabbino: Ali?

Ali Davis: Yes.

Anne Adams Rabbino: Pranita?

Pranita Raghavan: Yes.

Anne Adams Rabbino: Okay. We have eight in favor and one person was excused. Erika Mallin is not with us today.

Female: Thank you all.

Male: Thank you very much.

Female: Good luck.

Female: Yes, good luck.

I.D. Aruede: Thank you.

Male: Thank you.

I.D. Aruede: So appreciate your time.

Female: Thank you.

I.D. Aruede: All right. We'll drop off now.

Female: Well …

I.D. Aruede: Thanks so much. Bye.

Susan Henshaw Jones: Very good presentation. Thank you.

I.D. Aruede: Thank you.

Female: Bye.

Female: Bye.

Anne Adams Rabbino: Okay, Susan, we just have two administrative matters. One is that at the board's March meeting, the board authorized an amended and restated agreement with EDC to provide accounting and administrative services. The term authorized in March was – expires at the end of December, so we're requesting authorization to extend the term with EDC for another year, which would be through 12/31/2021. And then the last item is the minutes of the August 4th meeting, which we sent to you last week. If there are any questions about either of those items …

Susan Henshaw Jones: Do you want – you want to take them separately or together?

Anne Adams Rabbino: We can take them together, and we can do those by voice vote without a roll call.

Susan Henshaw Jones: Well, do I hear a motion to approve?

Ali Davis: This is Ali, so moved.

Lynne Sagalyn: Second, Lynne.

Susan Henshaw Jones: Are there second? Is there a second?

Lynne Sagalyn: Yes, Lynne.

Susan Henshaw Jones: Okay. Any negatives? So the motion is carried.

Anne Adams Rabbino: And then I just have two brief reports to give that don't require any board action. One is that the Manhattan School of Music concluded its agreement with the holder of the bonds, the Israeli Discount Bank, to extend a portion of their principal payment that was due on October 1. They've extended it for up to five years.

And the second thing to report is that there's litigation pending under the False Claims Act against a number of defendants, which relates to the defendants' obligations as remarketing agent and in other capacities all related to variable rate demand obligations, or VRDOs.

The party that has brought this litigation is called Edelweiss or Edelweiss. The attorneys for both the defendants and the plaintiffs have sought to subpoena the Trust to obtain its documents related to VRDOs issued by the Trust for the benefit of nine different institutions.

Because the Trust doesn't determine whether the bonds will be variable rate bonds or fixed rate bonds and doesn't select remarketing agents and another parties, we have argued to the parties in the litigation that they should get this information from the borrowers and not require the Trust to produce. It would be a – it would be a project to respond to this.

The defendants' counsel has agreed to put its subpoena to the Trust on pause while they seek information from the affected borrowers. And we hope to achieve the same result with the plaintiff's counsel.

The affected borrowers are obligated to pay the Trust's legal expenses for this matter under their indemnification agreements, but Eileen Heitzler and I am working with a litigator at Orrick, and we're doing all that we can to keep the expenses low. So I don't know if anyone has any questions about either of those reports.

Susan Henshaw Jones: Is there any question on Edelweiss? Does everybody understand it? It's – I think that it's left in your in good hands, Anne and – or let's go to Anne.

Anne Adams Rabbino: Okay.

Female: Happy holidays, everyone.

Anne Adams Rabbino: Same to you.

Female: Stay safe.

Anne Adams Rabbino: Thank you. Well …

Female: Stay safe.

Female: Thank very much. Thank you.

Female: Thanks.

Female: Oh, thank you.

Female: Bye.

Female: Thanks, thanks.

Susan Henshaw Jones: Thank you. Bye.

Anne Adams Rabbino: Bye.

END