

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM SUMMARY

Meeting Date: September 14, 2021

Consent

Regular

Ordinance

Public Hearing

Department: Facilities Development & Operations

I. EXECUTIVE BRIEF

**Motion and Title: Staff recommends motion to receive and file:** a notice of exercise of the third option to extend Lease Agreement with Actualidad 1040AM, LLC through May 15, 2026 for Actualidad's continued use of approximately 16 acres and four (4) AM radio towers located in the Ag Reserve for \$39,143.20/year.

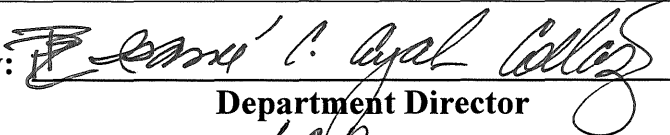
**Summary:** On May 16, 2006, the Board of County Commissioners (Board) approved the Lease Agreement (R2006-0905) with James Crystal Boynton Beach (JCBB) for approximately 16 acres of land within the Bowman Farm Property in the Ag Reserve for the operation of an AM radio tower. On April 17, 2012, the Board approved the Consent to Assignment and Amendment of Lease Agreement to Actualidad 1040AM, LLC (R2012-0596). Pursuant to the Lease, Actualidad has the unilateral right to exercise its extension option. Actualidad provided the County with a notice of its intent to exercise its option to extend the term through May 15, 2026, with one (1) five (5) year extension option remaining. The rent increased from \$38,003.11/year (\$3,166.93/mo.) to \$39,143.20/year (\$3,261.93/mo.) effective April 1, 2021 pursuant to the terms of the Lease. PREM will continue to have administrative responsibility for this Lease. **(PREM) District 5/Countywide (HJF)**

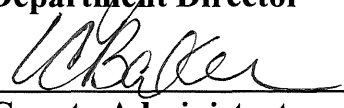
**Background and Justification:** The County acquired the Bowman Farm Property in the Ag Reserve in 2001. At that time, JCBB leased approximately 16 acres of the Bowman Farm. JCBB was a broadcasting company operating four (4) AM radio stations in Palm Beach and Broward counties and had four (4) AM radio antenna towers on the leased property. As the JCBB lease was expiring in 2002, a Request for Proposals was issued to lease the 16 acres and JCBB was the sole respondent JCBB continued to lease the property until 2012 when JCBB sold its interest in the 1040AM radio station, including the FCC radio station license, tower and equipment to Actualidad. On April 17, 2012, the Board approved the Consent to Assignment and Amendment of Lease Agreement to Actualidad. The County may terminate this Lease at any time after May 16, 2026, with at least 6 months' notice; Actualidad may terminate the Lease any time with at least 6 months notice. Although, state statutes do not require a Disclosure of Beneficial Interests be obtained when the County leases property to a tenant, Attachment 3 identifies Actualidad Networks of Florida (95%): Enrique Cusco (90%), Eduardo Cusco (10%), and Edan Holding Company (5%): Abid Edan (51%), Norma Edan (49%) as holding interests in Actualidad.

**Attachments:**

1. Location Map
2. Extension option request letter
3. Disclosure of Beneficial Interests

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Recommended By:  8/16/21  
Department Director Date

Approved By:  9/2/21  
County Administrator Date

**II. FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact:**

Fiscal Years	2021	2022	2023	2024	2025
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	<u>(\$14,731)</u>	<u>(\$39,730)</u>	<u>(\$40,922)</u>	<u>(\$42,150)</u>	<u>(\$43,414)</u>
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
<b>NET FISCAL IMPACT</b>	<u><b>(\$14,731)</b></u>	<u><b>(\$39,730)</b></u>	<u><b>(\$40,922)</b></u>	<u><b>(\$42,150)</b></u>	<u><b>(\$43,414)</b></u>
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget: Yes  No

Budget Account No: Fund 1222 Dept 800 Unit 8011 Object 6225  
 Program \_\_\_\_\_

**B. Recommended Sources of Funds/Summary of Fiscal Impact:**


The Annual Rent to increase by the greater of the CPI or 103%; for budgetary purpose only, using 103% increase.


Fixed Asset Number N/A

C. Departmental Fiscal Review: 


**III. REVIEW COMMENTS**

**A. OFMB Fiscal and/or Contract Development Comments:**

 8/19/21  
 OFMB *favorable* *acknowledged* *8/19/21* LM 8/19

 8/20/21  
 Contract Development and Control

**B. Legal Sufficiency:**

 8/31/21  
 Assistant County Attorney

**C. Other Department Review:**

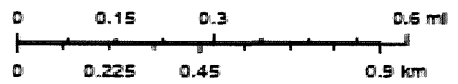
\_\_\_\_\_  
 Department Director

**This summary is not to be used as a basis for payment.**



July 21, 2021

1:18,058



## LOCATION MAP



Attachment #2  
Extension Option Request Letter (1 page)



December 16<sup>th</sup>, 2020

**VIA FEDERAL EXPRESS**

Palm Beach County  
Property and Real Estate Management Division  
Attn: Director  
2633 Vista Parkway  
West Palm Beach, FL 33411-5605

Re: Lease Agreement dated May 16, 2006 as amended by a Consent to Assignment and Amendment of Lease Agreement dated as of April 17, 2012 between PALM BEACH COUNTY, FLORIDA, a Political Subdivision of the State of Florida as Landlord and ACTUALIDAD 1040 LLC, a Florida limited liability company as Tenant (the "Lease")

Dear Sir or Madam:

In accordance with Section 1.03 of the referenced Lease, Tenant hereby provides written notice of its exercise of the option to extend the Term of the referenced Lease for a period of 5 years from and after the current termination date of May 16, 2021; accordingly, the Term of the Lease is extended to May 16, 2026.

From and after the exercise of this option, Tenant shall have one (1) additional successive five (5) year renewal option.

Capitalized terms shall have the meanings ascribed to them in the Lease.

ACTUALIDAD 1040AM, LLC

By: 

Eduardo Cusco

cc: Palm Beach County Attorney's Office  
Attn: Real Estate Attorney  
301 North Olive Avenue, Suite 601  
West Palm Beach, FL 3340  
**Via Federal Express**

Attachment #3  
Disclosure of Beneficial Interests (3 pages)

**TENANT'S DISCLOSURE OF BENEFICIAL INTERESTS**

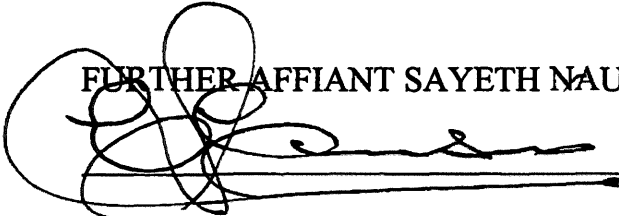
TO: PALM BEACH COUNTY CHIEF OFFICER, OR HIS OR HER OFFICIALLY DESIGNATED REPRESENTATIVE

STATE OF FLORIDA  
COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority, this day personally appeared Eduardo Cusco, hereinafter referred to as "Affiant", who being by me first duly sworn, under oath, deposes and states as follows:

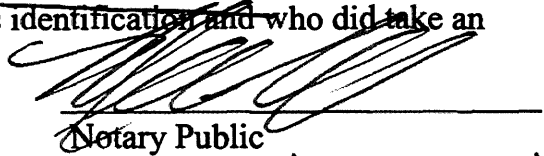
1. Affiant is the Executive Vice-President (position - i.e. president, partner, trustee) of Actualidad 1040AM, LLC (the "Tenant") which entity is the lessee of the real property legally described on the attached Exhibit "A" (the "Property").
2. Affiant's address is: c/o Actualidad 1040AM, LLC,  
2525 Ponce de Leon Blvd., Suite 250,  
Coral Gables, FL 33134
3. Attached hereto, and made a part hereof, as Exhibit "B" is a complete listing of the names and addresses of every person or entity having a five percent (5%) or greater beneficial interest in the Tenant and the percentage interest of each such person or entity.
4. Affiant further states that Affiant is familiar with the nature of an oath and with the penalties provided by the laws of the State of Florida for falsely swearing to statements under oath.
5. Under penalty of perjury, Affiant declares that Affiant has examined this Affidavit and to the best of Affiant's knowledge and belief it is true, correct, and complete, and will be relied upon by Palm Beach County relating to its lease of the Property.

~~FURTHER AFFIANT SAYETH NAUGHT.~~

, Affiant

Print Affiant Name: Eduardo Cusco

The foregoing instrument was sworn to, subscribed and acknowledged before me this 1<sup>st</sup> day of February, 2021, by Eduardo Cusco [X] who is personally known to me or ~~or~~  who has produced \_\_\_\_\_ as identification and who did take an oath.





Notary Public  
Miriam Cruz-Bustillo  
(Print Notary Name)

NOTARY PUBLIC  
State of Florida at Large  
My Commission Expires: May 11 2024

## **EXHIBIT "A"**

### **PROPERTY**

Premises known as a portion of property control number 00-42-46-07-01-000-0090, and legally described as Tracts 79 and 80, Less the North 65.0 feet and all of Tracts 81, and 82, Block 7, Palm Beach Farms Plat No. 1, according to the Plat thereof as recorded in Plat Book 2, Pages 26 through 28, inclusive, Public Records of Palm Beach County, Florida in Palm Beach County, Florida.



**EXHIBIT "B"**

**SCHEDULE TO BENEFICIAL INTERESTS IN PROPERTY**

Tenant is only required to identify five percent (5%) or greater beneficial interest holders. If none, so state. Tenant must identify individual owners. If, by way of example, Tenant is wholly or partially owned by another entity, such as a corporation, Tenant must identify such other entity, its address and percentage interest, as well as such information for the individual owners of such other entity.

**NAME ADDRESS PERCENTAGE OF INTEREST**

ACTUALIDAD 1040AM, LLC, a Florida limited liability company is a wholly owned subsidiary of ACTUALIDAD MEDIA GROUP LLC (formerly known as ACTUALIDAD 1020AM, LLC) a Florida limited liability company owned as follows:

\*95% by ACTUALIDAD NETWORKS OF FLORIDA, LLC (formerly known as UNION RADIO NETWORK OF FLORIDA, LLC, a Delaware limited liability company) whose outstanding memberships interest are owned:

Enrique Cusco c/o 2525 Ponce de Leon Blvd., #250 90%  
Coral Gables, FL 33134

Eduardo Cusco c/o 2525 Ponce de Leon Blvd., #250 10%  
Coral Gables, FL 33134

\*5% by EDEN HOLDINGS COMPANY, a Florida corporation whose shareholders are:

Adib Eden c/o 9415 SW 144 Street 51%  
Miami, FL 33167

Norma Eden c/o 9415 SW 144 Street 49%  
Miami, FL 33167