



RESOLUTION No. 11-413

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA

RESOLUTION APPROVING EXECUTION OF A COMMERCIAL LEASE AGREEMENT WITH TURNING POINT COMMUNITY PROGRAMS FOR OFFICE SPACE LOCATED AT 500 CROWN POINT CIRCLE, SUITE 100, GRASS VALLEY, CA

WHEREAS, effective June 1, 2008, the County of Nevada entered into a Commercial Lease Agreement with Turning Point Community Programs, for office space located at 500 Crown Point Circle, Suite 100, Grass Valley, CA authorized by Resolution 08-202; and,

WHEREAS, the Lease expired on May 31, 2011; and,

WHEREAS, the parties desire to enter into a new Commercial Lease Agreement beginning June 1, 2011 and ending June 30, 2014 at a monthly rate of \$5,772 during the initial term of the Lease.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Board of Supervisors of the County of Nevada, State of California, that the Board of Supervisors hereby approves in the form attached hereto, a Commercial Lease Agreement between the County of Nevada and Turning Point Community Programs for the office space located at 500 Crown Point Circle, Suite 100, Grass Valley, CA 95945, and the Chair of the Board is hereby authorized to execute the Lease Agreement on behalf of the County of Nevada. Revenue Account: 0101-10702-415-1000/430200

PASSED AND ADOPTED by the Board of Supervisors of the County of Nevada at a ^{special}~~regular~~ meeting of said Board, held on the 16th day of August, 2011, by the following vote of said Board:

Ayes: Supervisors Nathan Beason, Edward Scofield, Terry Lamphier, Hank Weston & Ted S. Owens.

Noes: None.

ATTEST:

Absent: None.

CATHY R. THOMPSON
Clerk of the Board of Supervisors

Abstain: None.

By:

Edward C. Scofield, Chair

DATE	COPIES SENT TO
8/17/11	A-C* (hold)
8/23/11	Facilities Management <i>MS</i>
	TPCP
	A-C*

**Lease Agreement Between the County of Nevada
and Turning Point Community Programs**

This Commercial Lease Agreement ("Lease") is made and effective August 16, 2011, by and between **County of Nevada** ("Landlord") and **Turning Point Community Programs** ("Tenant").

Landlord is the owner of land and improvements commonly known and numbered as **500 Crown Point Circle, Grass Valley, CA, APN 0970065000** (the "Property").

Landlord makes available for lease a portion of the Property designated as **Suite 100**, constituting approximately 3848 square feet of office space (the "Leased Premises").

Landlord desires to lease the Leased Premises to Tenant, and Tenant desires to lease the Leased Premises from Landlord for the term, at the rental and upon the covenants, conditions and provisions herein set forth.

THEREFORE, in consideration of the mutual promises herein contained, and other good and valuable consideration, the parties hereby agree as follows:

1. Term

A. Landlord hereby leases the Leased Premises to Tenant, and Tenant hereby leases the same from Landlord, for an "Initial Term" beginning **June 1, 2011** and ending **June 30, 2014**, subject to such rights of extension and termination as hereinafter set forth.

B. Tenant may renew the Lease for **three (3) extended terms of three (3) years each**. Tenant shall exercise such renewal option, if at all, by giving written notice to Landlord not less than ninety (90) days prior to the expiration of the Initial Term. The renewal term shall be at the rental set forth below and otherwise upon the same covenants, conditions and provisions as provided in this Lease.

C. The purpose for which Tenant is entering into the Lease Agreement is to fulfill obligations under a contract funded in part by grants to the County from the State of California in support of the objectives of the County's mental health programs. The parties hereto agree that, in the event that said contract funding is reduced by 50% or more from the fiscal year 2007-08 level of \$772,598 the amount of square footage leased by the Tenant may, upon written request by Tenant, be reduced commencing with the first month of the new funding year in the same proportion as the funding has been reduced or by such lesser amount as the parties may mutually agreed upon. Such a reduction in square footage will not be made if the reason for reduction in contract funding is Tenant's failure to provide the minimum number of billable minutes of service as specified in said contract.

D. Notwithstanding any other provision of this Lease, Landlord or Tenant may terminate this Lease upon one hundred eighty (180) days' written notice.

2. Rental

A. Tenant shall pay to Landlord \$5,772.00 per month during the Initial Term of the rental. Each installment payment shall be due in advance on the first day of each calendar month during the lease term to Landlord at **County of Nevada, Facilities Management, 10014 N. Bloomfield, Nevada City CA 95959**, or at such other place designated by written notice from Landlord or Tenant.

B. The monthly rent shall be adjusted on the annual anniversaries of the commencement of the lease by the full amount of the prior available average annual increase in the Consumer's Price Index as established by the publication available prior to the adjustment date of the California Department of Industrial Relations, Division of Labor Statistics & Research, Urban Wage Earners and Clerical Workers for California.

C. A late charge of \$50.00 will be assessed on all rent not received by the 15th day of each month. If payment remitted by check or note or other instrument is presented for payment to the appropriate

institution or individual, and if said funds are insufficient, payment will be subject to a \$25.00 reprocessing fee. All sums of money required to be paid by Tenant to Landlord under this Lease shall bear interest at the highest rate permitted by law from the date same was due until the date same is paid in full.

3. Use

A. Tenant shall use the Leased Premises primarily for the purpose of supporting the objectives of the County's mental health programs and shall at all times comply with all applicable laws, regulations and ordinances applicable to said use. Tenant may alter said use to any lawful purpose, upon the written consent of Landlord, which consent shall not be unreasonably withheld.

B. Notwithstanding the foregoing, Tenant shall not use the Leased Premises for the purposes of storing, manufacturing or selling any explosives, flammables or other inherently dangerous substance, chemical, thing, or device, or any substance which is illegal under state or federal law, or any hazardous substance as defined by federal, state or local law. Tenant, at its own expense, shall comply with applicable laws concerning the handling and removal of hazardous material and medical wastes generated as a result of Tenant's use of the Premises under this Lease.

C. By entry hereunder, Tenant accepts the Leased Premises as being in good and sanitary order, condition and repair.

4. Sublease and Assignment

Tenant shall not sublease all or any part of the Leased Premises, or assign this Lease in whole or in part without Landlord's prior written consent, such consent not to be unreasonably withheld or delayed.

5. Repairs

During the Lease term, Tenant shall make, at Tenant's sole expense, all necessary repairs to the Leased Premises. Repairs shall include such items as routine repairs of floors, walls, ceilings, and other parts of the Leased Premises damaged or worn through normal occupancy, except for major mechanical systems or the roof, subject to the obligations of the parties otherwise set forth in this Lease. Notwithstanding the foregoing, Tenant will pay to Landlord the reasonable cost of any repairs or maintenance required as a direct result of negligent acts or omissions of Tenant, its agents, employees, or invitees.

6. Alterations and Improvements

A. Tenant, at Tenant's sole expense, may desire to remodel, redecorate, and make additions, improvements and replacements of and to all or any part of the Leased Premises from time to time as Tenant may deem desirable. Tenant may construct such improvements and make installations in the Leased Premises in accordance with plans and specifications as may be prepared by Tenant and approved by Landlord ("Premise Improvements"). Tenant shall endeavor to minimize any disruptions to any existing occupants of Landlord's property during construction.

B. Tenant warrants to Landlord that all materials and equipment furnished by Tenant in connection with Premise Improvements shall be new unless otherwise specified in the approved plans and specifications, and that all of Tenant's work to be performed shall be made in a good and workmanlike manner, free from faults and defects and in accordance with applicable federal, state and local laws. Tenant shall have the right to place and install personal property, trade fixtures, equipment and other temporary installations in and upon the Leased Premises, and fasten the same to the premises.

C. All Premise Improvements, exclusive of personal property, equipment, machinery, trade fixtures and temporary installations, placed within the Leased Premises by Tenant, shall be the property of the Landlord upon termination of this Lease. Tenant shall have the right to remove the same at any time during the term of this Lease provided that (1) Tenant is not then in default under this Lease and (2) all damage to the Leased Premises caused by such removal shall be repaired by Tenant in a good and workmanlike manner, at Tenant's sole expense.

D. Upon termination of this Lease, Tenant shall return the Leased Premises to the same condition as when delivered to Tenant, reasonable wear and tear, and damage by casualty, and alterations approved by Landlord excepted.

7. Property Taxes

Landlord shall pay, prior to delinquency, all general property taxes and installments of special assessments coming due during the Lease term on the Leased Premises, except for such taxes as may be assessed due to Tenant's leasehold interest, and all personal property taxes with respect to Landlord's personal property, if any, on the Leased Premises. Tenant shall be responsible for paying all taxes assessed on Tenant's leasehold interest and personal property taxes with respect to Tenant's personal property at the Leased Premises.

8. Insurance and Indemnification

A. Landlord shall indemnify, defend and hold harmless Tenant, its officers, agents and employees from and against any claim, liability, loss, injury or damage arising out of, or in connection with, performance of this Agreement by Landlord and its agents, employees or sub-contractors, excepting only loss, injury or damage caused by the negligence or willful misconduct of personnel employed by the Tenant. The Landlord shall reimburse the Tenant for all costs, attorneys' fees, expenses and liabilities incurred with respect to any litigation in which the Landlord is obligated to indemnify, defend, and hold harmless the Tenant under this Agreement.

B. Tenant shall indemnify, defend and hold harmless Landlord, its officers, agents and employees from and against any claim, liability, loss, injury or damage arising out of, or in connection with, performance of this Agreement by Tenant and its agents, employees or sub-contractors, excepting only loss, injury or damage caused by the negligence or willful misconduct of personnel employed by the Landlord. The Tenant shall reimburse the Landlord for all costs, attorneys' fees, expenses and liabilities incurred with respect to any litigation in which the Tenant is obligated to indemnify, defend, and hold harmless the Landlord under this Agreement.

C. If the Leased Premises or any other part of the Building is damaged by fire or other casualty resulting from any act or negligence of Tenant or any of Tenant's agents, employees or invitees, rent shall not be diminished or abated while such damages are under repair, and Tenant shall be responsible for the costs of repair not covered by insurance.

D. Landlord shall maintain fire and extended coverage insurance on the Building and the Leased Premises in such amounts as Landlord shall deem appropriate. Tenant shall be responsible, at its expense, for fire and extended coverage insurance on all of its personal property, including removable trade fixtures, located in the Leased Premises.

E. Tenant and Landlord shall, each at its own expense, maintain a policy or policies of comprehensive general liability insurance with respect to the respective activities of each in the Building with the premiums thereon fully paid on or before due date, issued by and binding upon some insurance company approved by Landlord, such insurance to afford minimum protection of not less than \$1,000,000 combined single limit coverage of bodily injury, property damage or combination thereof. Landlord shall be listed as an additional insured on Tenant's policy and Tenant shall be listed as additional insured on Landlord's policy with an endorsement page. Tenant shall obtain the agreement of Tenant's insurers to notify Landlord that a policy is due to expire at least (30) days prior to such expiration. Landlord shall not be required to maintain insurance against thefts within the Leased Premises or the Building.

F. Landlord shall not be liable to Tenant, or to anyone whatsoever for any damages caused by plumbing, gas, water, steam, sprinkler or other pipe and sewage system, or by the bursting, running or leaking of any tank, washstand, closet, or waste or other pipe, in and about the Leased Premises, or for any damage caused by water being upon or coming in through the roof, skylight, vent, trap door or otherwise, except for any obligations for maintenance and repair as otherwise set forth in this Lease.

G. Landlord and Tenant each hereby waive any right of recovery against the other due to loss of or damage to the property of either Landlord or Tenant when such loss of or damage to property arises out of acts of God or any other property perils whether or not such perils have been insured, self-insured, or non-insured.

9. Utilities

Landlord shall pay all charges for water, sewer, gas, electricity, and other services and utilities used by Tenant on the Leased Premises during the term of this Lease unless otherwise expressly agreed in writing by Landlord

10. Signs

Following Landlord's consent, Tenant shall have the right to place on the Leased Premises, at locations selected by Tenant, any signs which are permitted by applicable zoning ordinances and private restrictions; provided however that upon the termination of this Lease, Tenant will remove said signs and will restore the Premises to their original condition. Landlord may refuse consent to any proposed signage that is in Landlord's opinion too large, deceptive, unattractive or otherwise inconsistent with or inappropriate to the Leased Premises or use of any other tenant. Tenant shall be responsible for obtaining any necessary permission from governmental authorities, including without limitation use and building permits, or adjoining owners and occupants, necessary to place or construct said signs. Landlord shall assist and cooperate with Tenant in obtaining any necessary permission from governmental authorities or adjoining owners and occupants for Tenant to place or construct the foregoing signs. Any signs installed by Tenant shall become the property of Landlord if (1) Tenant fails to remove said sign within thirty (30) days after termination of the Lease and (2) Landlord waives, in writing, the requirement that Tenant remove said sign.

11. Entry

Landlord shall have the right to enter upon the Leased Premises at reasonable hours to inspect the same (except in the case of emergency), provided Landlord shall not thereby unreasonably interfere with Tenant's business on the Leased Premises.

12. Parking

During the term of this Lease, Tenant shall have the non-exclusive use in common with Landlord, other tenants of the Building, their guests and invitees, of the non-reserved common automobile parking areas, driveways, and footways, subject to rules and regulations for the use thereof as prescribed from time to time by Landlord. Landlord reserves the right to designate parking areas within the Building or in reasonable proximity thereto, for Tenant and Tenant's agents and employees.

13. Building Rules

Landlord shall have the right to establish and enforce reasonable rules and regulations applicable to all lessees concerning the maintenance, management, use and operation of the Property. Tenant will comply with the rules of the Property adopted and altered by Landlord from time to time and will cause all of its agents, employees, invitees and visitors to do so. All changes to such rules will be sent by Landlord to Tenant in writing.

14. Damage and Destruction

A. If the Leased Premises are totally destroyed by fire or other casualty, either party may terminate this Lease immediately by giving notice to the other party.

B. In the event of minor damage to any part of the Leased Premises, and if such damage does not render the Leased Premises unusable for Tenant's purposes, Landlord shall promptly repair such damage at the cost of the Landlord. In making the repairs called for in this paragraph, Landlord shall not

be liable for any delays resulting from strikes, governmental restrictions, inability to obtain necessary materials or labor or other matters which are beyond the reasonable control of Landlord.

C. If Tenant remains in possession of the Leased Premises though partially destroyed, the rent for said Leased Premises, the rent for said Leased Premises as herein provided, during restoration, shall be reduced by the same ratio as the usable square feet Tenant is thus precluded from occupying, bears to the total usable square feet in the Leased Premises. Rentals and other charges paid in advance for any such periods shall be credited on the next ensuing payments, if any, but if no further payments are to be made, any such advance payments shall be refunded to Tenant. The provisions of this paragraph extend not only to the matters aforesaid, but also to any occurrence which is beyond Tenant's reasonable control and which renders the Leased Premises, or any appurtenance thereto, inoperable or unfit for occupancy or use, in whole or in part, for Tenant's purposes.

15. Default

A. If default shall at any time be made by Tenant in the payment of rent when due to Landlord as herein provided, and if said default shall continue for fifteen (15) days after written notice thereof shall have been given to Tenant by Landlord, or if default shall be made in any of the other covenants or conditions to be kept, observed and performed by Tenant, and such default shall continue for thirty (30) days after notice thereof in writing to Tenant by Landlord without correction thereof then having been commenced and thereafter diligently prosecuted, Landlord may declare the term of this Lease ended and terminated by giving Tenant written notice of such intention, and if possession of the Leased Premises is not surrendered, Landlord may reenter said premises. Landlord shall have, in addition to the remedy above provided, any other right or remedy available to Landlord on account of any Tenant default, either in law or equity. Landlord shall use reasonable efforts to mitigate its damages. Should Landlord elect to cure the default itself, all costs associated with such cure shall be reimbursed by Tenant to Landlord, as Additional Rent, within thirty (30) days of receipt of Landlord's invoice for said costs.

B. Landlord shall not be in default unless Landlord fails to perform its obligations under this Lease within a reasonable time, but in no event later than thirty (30) days after written notice by Tenant to Landlord specifying wherein Landlord has failed to perform such obligations. If the nature of Landlord's obligation is such that more than thirty (30) days are required for performance, then Landlord shall not be in default if Landlord commences performance within such thirty (30) day period and thereafter diligently prosecutes the same to completion. If Landlord fails to cure a prospective default within the time periods outlined above, Tenant shall have the option to cure the default, in addition to any other remedies at law not inconsistent herewith. Should Tenant elect to cure the default itself, all costs associated with such cure shall be reimbursed by Landlord to Tenant within thirty (30) days of receipt of Tenant's invoice for said costs. However, upon Landlord's failure to so reimburse or, at Tenant's option, said costs shall be held from rent due hereunder.

16. Quiet Possession

Landlord covenants and warrants that so long as Tenant keeps and performs its covenants and obligations hereunder, Landlord will keep and maintain Tenant in exclusive, quiet, peaceable and undisturbed and uninterrupted possession of the Leased Premises during the term of this Lease.

17. Condemnation

If any legally, constituted authority condemns the Building or such part thereof which shall make the Leased Premises unsuitable for Tenant's business and operations, this Lease shall terminate at the option of the Tenant when the public authority takes possession, and Landlord and Tenant shall account for rental as of that date. If only part of the Leased Premises is taken and the remainder of the Leased Premises is sufficient for the conduct of Tenant's business and operations, then the Lease shall continue as to the part not taken, but the monthly rent shall be reduced in proportion that the usable area of the Leased Premises taken bears to the usable are of the Leased Premises before taking. Termination of the Lease in accordance with this paragraph shall be without prejudice to the rights of either party to recover

compensation from the condemning authority for any loss or damage caused by the condemnation. Neither party shall have any rights in or to any award made to the other by the condemning authority.

18. Subordination and Estoppel Certificate

A. Tenant accepts this Lease subject and subordinate to any mortgage, deed of trust or other lien presently existing or hereafter arising upon the Leased Premises, or upon the Building and to any renewals, refinancing and extensions thereof, but Tenant agrees that any such mortgagee shall have the right at any time to subordinate such mortgage, deed of trust or other lien to this Lease on such terms and subject to such conditions as such mortgagee may deem appropriate in its discretion. Landlord is hereby irrevocably vested with full power and authority to subordinate this Lease to any mortgage, deed of trust or other lien now existing or hereafter placed upon the Leased Premises of the Building, and Tenant agrees upon demand to execute such further instruments subordinating this Lease or attorning to the holder of any such liens as Landlord may request. In the event that Tenant should fail to execute any instrument of subordination herein required to be executed by Tenant promptly as requested, Tenant hereby irrevocably constitutes Landlord as its attorney-in-fact to execute such instrument in Tenant's name, place and stead, it being agreed that such power is one coupled with an interest.

B. Tenant agrees that it will from time to time upon request by Landlord execute and deliver to such persons as Landlord shall request an estoppels certificate in recordable form certifying that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as so modified), stating the dates to which rent and other charges payable under this Lease have been paid, stating that Landlord is not in default hereunder (or if Tenant alleges a default stating the nature of such alleged default) and further stating such other matters as Landlord shall reasonably require. Any such certificate may be conclusively relied upon for the intended transaction for which the statement was requested.

19. Security Deposit

Tenant is not required to pay a Security Deposit to Landlord. However, Tenant is expected to, and hereby agrees to, upon termination of this Lease Agreement, leave the premises, including all floor coverings and window coverings, in a clean condition.

20. Notice

Any notice required or permitted under this Lease shall be effective only when made in writing, personally delivered or deposited in the United States mail, certified, postage prepaid and addressed as follows:

If to Landlord to:

**Nevada County
Facilities Management
10014 North Bloomfield
Nevada City, CA 95959**

If to Tenant to:

**Turning Point Community Programs
3440 Viking Drive, Suite 114
Sacramento, CA 95827**

Any notice or correspondence shall be deemed delivered upon personal delivery or five (5) days after deposited in the United States mail. Landlord and Tenant shall each have the right from time to time to change the place notice is to be given under this paragraph by written notice thereof to the other party.

21. Brokers

Tenant represents that Tenant was not shown the Premises by any real estate broker or agent and that Tenant has not otherwise engaged in, any activity which could form the basis for a claim for real estate commission, brokerage fee, finder's fee or other similar charge, in connection with this Lease.

22. Waiver

No waiver of any default of Landlord or Tenant hereunder shall be implied from any omission to take any action on account of such default if such default persists or is repeated, and no express waiver shall affect any default other than the default specified in the express waiver and that only for the time and to the extent therein stated. One or more waivers by Landlord or Tenant shall not be construed as a waiver of a subsequent breach of the same covenant, term or condition.

23. Memorandum of Lease

The parties hereto contemplate that this Lease should not and shall not be filed for record, but in lieu thereof Landlord and Tenant shall execute a Memorandum of Lease to be recorded for the purpose of giving record notice of the appropriate provisions of this Lease.

24. Headings

The headings used in this Lease are for convenience of the parties only and shall not be considered in interpreting the meaning of any provision of this Lease.

25. Successors

The provisions of this Lease shall extend to and be binding upon Landlord and Tenant and their respective legal representatives, successors and assigns.

26. Consent

Landlord shall not unreasonably withhold or delay its consent with respect to any matter for which Landlord's consent is required or desirable under this Lease.

27. Time is of the Essence

Time is of the essence for each and every term and provision of this Lease.

28. Compliance with Law

Tenant shall comply with all laws, orders, ordinances and other public requirements now or hereafter pertaining to Tenant's use of the Leased Premises. Landlord shall comply with all laws, orders, ordinances and other public requirements now or hereafter affecting the Leased Premises.

29. Final Agreement

This Lease reflects the entire agreement between the parties regarding the subject matter hereof. This agreement terminates and supersedes all prior understandings or agreements of the parties, whether written or oral, regarding the subject matter hereof. This Agreement may be modified only by a further writing that is duly executed by both parties.

30. Governing Law

This Agreement shall be governed, construed and interpreted by, through and under the Laws of the State of California.

31. Warranty of Authority

The person executing this Lease on behalf of Tenant hereby covenants and warrants that Tenant is a duly authorized and existing corporation and that he/she is duly authorized to execute this Lease.

IN WITNESS WHEREOF, the parties have executed this Lease as of the day and year first above written.

TENANT:
TURNING POINT COMMUNITY PROGRAMS

John Buck
John Buck
Chief Executive Officer

Dated: 8/15/11

LANDLORD:
COUNTY OF NEVADA

Ed C. Scofield
Honorable Edward C. Scofield
Chair, Board of Supervisors

Dated: 8/22/11

Attest:
Cathy R. Thompson
Cathy R. Thompson
Clerk of the Board of Supervisors

APPROVED AS TO FORM:
Michael S. Jamison, County Counsel

By: Alison A. Barratt-Green
Alison A. Barratt-Green,
Assistant County Counsel