# RESOLUTION NO. 27, 2011

A RESOLUTION FOR THE WAIVER OF NONCOMPLIANCE RELATED TO LATE-FILED ASSESSED VALUATION DEDUCTION DOCUMENTS OF McMILLIAN PARTNERSHIP (D.B.A. TASK FORCE TIPS, INC.)

**WHEREAS,** Pursuant to Resolution No. 5-2010, as confirmed by Resolution No. 7-2010, the Common Council of the City of Valparaiso, Indiana (the "City"), designated a certain area located within the City as an economic revitalization area (an "ERA");

**WHEREAS,** Resolution No. 5-2010 remains in full force and effect;

**WHEREAS,** McMillian Partnership (dba: Task Force Tips, Inc.) (the "Company") filed with the City Council a statement of benefits dated March 17, 2008 (the "Statement of Benefits") proposing the construction of a 82,000 square foot manufacturing facility including a 19,000 square foot office facility for an estimated cost of $7,500,000;

**WHEREAS,** Pursuant to Resolution No. 5, 2008, the City Council approved the Statement of Benefits on March 31, 2008 for an assessed valuation deduction on the real property improvements for a period of ten (10) years;

**WHEREAS,** The Company represents that it has constructed real property improvements consistent with the Statement of Benefits and on September 24, 2010 received its Notice of Assessment of Land and Structures (FORM 11) on said new real property improvements;

**WHEREAS,** The Company represents that it failed to file in a timely manner (due on or before May 15, 2011) with the City Council as the designating body and the Porter County Auditor a completed Compliance with Statement of Benefits Real Property Improvements (FORM CF-1/Real Property);

**WHEREAS,** The Company represents that it failed to file in a timely manner (due on or before October 24, 2010) with the Porter County Auditor a completed Application for Deduction from Assessed Valuation of Structures in Economic Revitalization Areas (ERA) (FORM 322/RE);

**WHEREAS,** As a result of the Company's failure to submit the timely FORM CF-1/Real Property and the FORM 322/RE, the Office of the Porter County Auditor did not apply an assessed valuation deduction to qualified real property improvements constructed consistent with the Statement of Benefits and Resolution No. 5, 2008 as first assessed for the March 1, 2010 assessment date for taxes due and payable in 2011;

**WHEREAS,** Indiana Code 6-1.1-12.1-11.3(a)(5) and I.C. 6-1.1-12.1-9.5 authorize the City Council as the designating body by resolution to waive noncompliance due to a failure to file a timely or complete deduction application under Sections 5, 5.3 or 5.4 of said chapter;

**WHEREAS,** The Company in a letter dated August 29, 2011 to Mayor Jon Costas as the executive has requested that the City Council exercise its authority to waive noncompliance of its untimely filings of both FORM CF-1/Real Property and FORM 322/RE by adopting a resolution waiving noncompliance pursuant to Indiana Code 6-1.1-12.1-11.3 and I.C. 6-1.1-12.1-9.5;

**WHEREAS,** The Company has submitted a completed FORM CF-1/Real Property properly as executed and dated August 29, 2011 to the City of Valparaiso and has filed a completed FORM 322/RE as properly executed and dated September 15, 2011 with the Office of the Porter County Auditor;

**WHEREAS,** The City Council has been presented with said Company's request and has determined to exercise its authority under Indiana Code 6-1.1-12.1-11.3 and I.C. 6-1.1-12.1-9.5 to waive the Company's noncompliance with the statement of benefits requirement in connection with the Company's FORM CF-1/Real Property and FORM 322/RE subject to the terms and conditions set forth in this Resolution; and,

**WHEREAS,** The City Council duly published and conducted a public hearing on November 28, 2011 for the purpose of considering public remonstrance and the adoption of this Resolution.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council as the designating body that based upon all of the evidence presented and a presentation by the Company, the City Council hereby finds that the Company's failure to submit or file in a timely manner FORM CF-1/Real Property to the City of Valparaiso and FORM 322/RE to the Office of the Porter County Auditor are hereby waived pursuant to Indiana Code 6-1.1-12.1-11.3(a)(5) and I.C. 6-1.1-12.1-9.5, such that:

(1) The FORM CF-1/Real Property as properly executed and dated August 29, 2011 determines that the Company has substantially complied with the Statements of Benefits,

(2) The City Council authorize the Clerk-Treasurer to complete and execute the FORM CF-1/Real Property for submission to the Office of the Porter County Auditor;

(3) The City Council certify a copy of this Resolution and a copy of the City Council meeting minutes for which said Resolution was approved to the Company for its files.

(4) The City Council certify a copy of this Resolution and a copy of the City Council meeting minutes for which said Resolution was approved to the Office of the Porter County Auditor as its approval of a waiver of non-compliance in order to apply the assessed valuation deduction as directed herein.

(5) The City Council certify a copy of this Resolution to the Indiana Department of Local Government Finance.

**BE IT FURTHER RESOLVED** that granting relief set forth herein for the March 1, 2010 assessment date for taxes due and payable in 2011 would cause an undue financial burden and hardship on the City and other overlapping taxing units such that the first year of the assessed valuation deduction ten-year abatement schedule applicable to qualified real property improvements shall begin for the March 1, 2012 assessment date for taxes due and payable in 2013.

**BE IT FURTHER RESOLVED** that if any part, clause, or portion of this resolution shall be adjudged invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of this Resolution as a whole or any other part, clause, or portion of this Resolution.

**ADOPTED AND APPROVED** by a vote of all members present and voting of the Common Council of the City of Valparaiso, Indiana this day **November 28, 2011**.

***SEE SIGNATURE PAGE***

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**ADOPTED AND APPROVED** by a vote of all members present and voting of the Common Council of the City of Valparaiso, Indiana this day **November 28th, 2011**.

John Bowker

Jan Dick

Joey Larr

absent

Robert Taylor

Michael Baird

Deb Butterfield

Art Elwood

Jon Costas, Mayor

**ATTEST:**

Sharon Emerson Swihart, Clerk-Treasurer