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**THE VILLAGE OF TINLEY PARK**

**Cook County, Illinois**

**Will County, Illinois**

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**RESOLUTION**

**NO. 2018-R-011**

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**A RESOLUTION AUTHORIZING AN ENVIRONMENTAL INDEMNITY AGREEMENT  
WITH 7-ELEVEN, INC.**

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**JACOB C. VANDENBERG, PRESIDENT  
KRISTIN A. THIRION, VILLAGE CLERK**

**MICHAEL J. PANNITTO**

**BRANKY YOUNGER**

**CYNTHIA A. BERG**

**WILLIAM P. BRADY**

**MICHAEL W. GLOTZ**

**MICHAEL J. MANGIN**

**Board of Trustees**

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Published in pamphlet form by authority of the President and Board of Trustees of the Village of Tinley Park

**RESOLUTION NO. 2018-R-011**

**A RESOLUTION AUTHORIZING AN ENVIRONMENTAL INDEMNITY AGREEMENT  
WITH 7-ELEVEN, INC.**

**WHEREAS**, the Village of Tinley Park, Cook and Will Counties, Illinois, is a Home Rule Unit pursuant to the Illinois Constitution of 1970; and

**WHEREAS**, the Corporate Authorities of the Village of Tinley Park, Cook and Will Counties, Illinois, have considered entering into a Environmental Indemnity Agreement with the 7-Eleven, Inc., a true and correct copy of such Environmental Indemnity Agreement being attached hereto and made a part hereof as **EXHIBIT 1**; and

**WHEREAS**, the Corporate Authorities of the Village of Tinley Park, Cook and Will Counties, Illinois, have determined that it is in the best interests of said Village of Tinley Park that said Agreement be entered into by the Village of Tinley Park;

**NOW, THEREFORE, Be It Resolved** by the President and Board of Trustees of the Village of Tinley Park, Cook and Will Counties, Illinois, as follows:

**Section 1:** The Preambles hereto are hereby made a part of, and operative provisions of, this Resolution as fully as if completely repeated at length herein.

**Section 2:** That this President and Board of Trustees of the Village of Tinley Park hereby find that it is in the best interests of the Village of Tinley Park and its residents that the aforesaid "Agreement" be entered into and executed by said Village of Tinley Park, with said Agreement to be substantially in the form attached hereto and made a part hereof as **EXHIBIT 1**.

**Section 3:** That the President and Clerk of the Village of Tinley Park, Cook and Will Counties, Illinois are hereby authorized to execute for and on behalf of said Village of Tinley Park the said Agreement.

**Section 4:** That this Resolution shall take effect from and after its adoption and approval.

**ADOPTED** this 20<sup>th</sup> day of February, 2018, by the Corporate Authorities of the Village of Tinley Park on a roll call vote as follows:

**AYES:** Younker, Pannitto, Berg, Brady, Glotz, Mangin


**NAYS:** None

**ABSENT:** None

**APPROVED** this 20<sup>th</sup> day of February, 2018, by the President of the Village of Tinley Park.

  
Village President

ATTEST:

  
Village Clerk

**EXHIBIT 1**

**ENVIRONMENTAL INDEMNITY AGREEMENT  
WITH 7-ELEVEN, INC.**

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STATE OF ILLINOIS        )  
COUNTY OF COOK        )     SS  
COUNTY OF WILL        )

CERTIFICATE

I, KRISTIN A. THIRION, Village Clerk of the Village of Tinley Park, Counties of Cook and Will and State of Illinois, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution No. 2018-R-011, "ENVIRONMENTAL INDEMNITY AGREEMENT WITH 7-ELEVEN, INC," which was adopted by the President and Board of Trustees of the Village of Tinley Park on February 20, 2018.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the Village of Tinley Park this \_\_\_\_\_ day of \_\_\_\_\_ 2018.

  
\_\_\_\_\_  
KRISTIN A. THIRION, VILLAGE CLERK

## ENVIRONMENTAL INDEMNITY AGREEMENT

This ENVIRONMENTAL INDEMNITY AGREEMENT is entered into as of the day of February 20, 2018 by 7-Eleven, Inc. ("Indemnitor"), and the Village of Tinley Park, Illinois, (the "Village") (Indemnitor and the Village are collectively referred to herein as "the Parties").

### RECITALS

**WHEREAS**, Indemnitor is the owner of certain real property located at 16658 S. Oak Park Avenue, Tinley Park, IL 60477 (the "Indemnitor's Property") and legally described in Exhibit A; and

**WHEREAS**, an underground storage tank system, as defined in 40 CFR Part 280 or supplanting federal regulations, owned or operated by Indemnitor or its predecessor in interest ("UST System"), was present on Indemnitor's Property; and

**WHEREAS**, releases of petroleum hydrocarbons to the environment at the Indemnitor's Property were reported to the Illinois Emergency Management Agency ("IEMA") on \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_, IEMA assigned incident numbers 20091227 and 20140526 to the releases (the "Releases")

**WHEREAS**, all of the previously mentioned hydrocarbons and those identified in TACO modeling calculations for soil and/or groundwater contamination identified at Indemnitor's Property resulting from the Releases are hereby collectively referred to as "Contaminants of Concern". As a result of said release, the soil and/or groundwater at the Indemnitor's Property contain detectable concentrations of Contaminants of Concern. The soil and/or groundwater impacted by Contaminants of Concern extend beyond the Indemnitor's Property.

**WHEREAS**, Indemnitor desires to obtain a Highway Authority Agreement to limit any potential threat to human health from soil and/or groundwater impacted with Contaminants of Concern in the right-of-way and road adjacent to Indemnitor's Property. The proposed Highway Authority Agreement is attached hereto as Exhibit B.

**NOW, THEREFORE**, in consideration of the terms and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. This Environmental Indemnity Agreement ("Agreement") is not binding upon the Village and Indemnitor until it is executed by the undersigned representative of the Village and, prior to execution, this Agreement constitutes an offer by Indemnitor. The duly authorized representative of Indemnitor has signed this Agreement.

2. The Village agrees that it will approve the Highway Authority Agreement provided, however, that if the Village does not approve the Highway Authority Agreement, this Agreement shall be deemed null and void.

3. Indemnitor on behalf of itself, its successors and assigns shall covenant and agree, at its sole cost and expense, to indemnify, defend and hold the Village and/or the Village's former, current and future officials, trustees, officers, servants, employees, agents, successors and assigns (collectively "Village Affiliates"), both in their capacities as Village representatives and as individuals, harmless from and against any loss, actions, responsibilities, obligations, liability, damage, expenses, claims, penalties, fines, injunctions, suits (including but not limited to suits alleging or related to personal injury and/or death), proceedings, disbursements or expenses (including reasonable attorneys' and experts' fees and disbursements and court costs) (collectively, the "Liabilities"), arising under or relating to any Environmental Laws (as defined below) and resulting or arising from the presence of Constituents of Concern on, in or from the Indemnitor's Property, or any other Liabilities which may be incurred by or asserted against the Village and/or any of the Village Affiliates resulting or arising from, alleged to arise from, or caused by the presence of Constituents of Concern on, in or from the Indemnitor's Property (including the groundwater thereunder).

(a) For purposes of this Agreement, "Environmental Laws" collectively means and includes any present and future local, state, federal or international law, statute, ordinance, order, decree, rule, regulation or treaty relating to public health, safety or the environment (including those laws relating to releases, discharges, emissions or disposals to air, water, land or groundwater, to the withdrawal or use of groundwater, to the use, handling, storage, disposal, treatment, transportation or management of Contaminants of Concern) including, without limitation, the Resource Conservation and Recovery Act, as amended ("RCRA"), 42 U.S.C. §6901, et seq., the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. §9601, et seq., the Superfund Amendments and Reauthorization Act of 1986 ("SARA"), the Contaminants of Concern Transportation Act, 49 U.S.C. §1801, et seq., the Clean Water Act, 33 U.S.C. §1251, et seq., the Clean Air Act, as amended, 42 U.S.C. §7401, et seq., the Toxic Substances Control Act, 15 U.S.C. §2601, et seq., the Safe Drinking Water Act, 42 U.S.C. §300f, et seq., the Occupational Safety and Health Act, 29 U.S.C. §655, et seq., the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. §136, et seq., the National Environmental Policy Act, 42 U.S.C. §4321, et seq., the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. §11001, et seq., and the Illinois Environmental Protection Act, and the amendments, regulations, orders, decrees, permits, licenses or deed restrictions now or hereafter promulgated thereunder.

Indemnitor shall assume the defense (with legal counsel reasonably agreeable to the Village) of all suits, administrative proceedings and disputes of any description with all persons, entities, political subdivisions or government agencies arising out of the matters to be indemnified under this Agreement. Indemnitor shall pay, promptly upon entry, any nonappealable order, judgment or other final resolution of any claim or dispute arising out of the matters to be

indemnified under this Agreement and shall pay promptly when due any fines, penalties or agreed settlements arising out of the matters to be indemnified under this Agreement. Indemnitor also agrees that it will not settle or compromise any action, suit or proceeding without the Village's prior written consent, which consent shall not be unreasonably withheld.

In addition to the indemnity provided above, if the Village encounters Contaminants of Concern while working in, on or under the Highway Authority Agreement Area or encounters Contaminants of Concern migrating from Indemnitor's Property, the Village has the right to remove contaminated soil or groundwater above Tier 1 residential remediation objectives (as set forth in the Tiered Approach to Cleanup Objectives, Title 35, Part 742) from the areas it is working and intends to do work and to dispose of them as it deems appropriate not inconsistent with applicable Environmental Laws so as to avoid causing a further release of the Contaminant of Concern and to protect human health and the environment. If Contaminants of Concern are found anywhere within the boundaries of the proposed Highway Authority Agreement, there is a rebuttal presumption that the Contaminants of Concern migrated from and are attributable to the Release identified with operations at Indemnitor's Property.

Prior to taking any action noted above, the Village will first give Indemnitor not less than sixty (60) days prior written notice, unless there is an emergency or an immediate threat to the health or safety to any individual or to the public, that it intends to perform a site investigation and remove or dispose of contaminated soil or groundwater to the extent necessary for its work. Failure to give notices does not void all future obligations of the parties, however, such failure to give notice may be offered as an offset against unreasonable cost under this Agreement. The removal or disposal shall be based upon the site investigation (which may be modified by field conditions during excavation), which Indemnitor shall review or shall perform, if requested to do so by the Village. If practicable, Indemnitor shall be allowed to remove and dispose of the contaminated soil and/or ground water necessary for the Village's work in advance of that work. In any event, Indemnitor shall reimburse the reasonable documented costs incurred by the Village to perform

the site investigation. The parties understand and agree that the Village's soil and groundwater removal will be in conjunction and/or associated with other work being done by the Village in, on, under or near the Indemnitor's Property, and part of the purpose of this paragraph is that if the Village encounters Contaminants of Concern while working on its utilities, or on a municipal project or otherwise, it will not be responsible in any way for the cost associated with encountering removing and/or disposing of such Contaminants of Concern. In addition, it is specifically understood and agreed between the parties that the Village will not be identified at any time, in any place, document or manifest as the owner, generator or transporter of contaminated soil or groundwater taken from Indemnitor's Property. If asked, Indemnitor shall cooperate with the Village in the removal and disposal of such soil and groundwater and shall sign all necessary documents and manifests for the proper transportation and disposal of the soil and/or groundwater.

4. Any notice required or permitted to be given to either party shall be deemed to be received by such party (i) three (3) days after deposit in the United States Registered or Certified Mail, Return Receipt Requested, or (ii) one (1) business day after deposit with a nationally recognized overnight delivery service guaranteeing next business day delivery, or (iii) upon

personal delivery to the party to whom addressed provided that a receipt of such delivery is obtained, or (iv) on the same business day as transmitted and confirmed by telecopy provided

If to the Indemnitor:

If to the Village:

With a Copy to:

or to the parties at such other addresses or telecopy numbers as they may designate by notice to the other party as herein provided.

5. This Agreement has been made and delivered in Illinois and shall be construed according to and governed by the internal laws of the State of Illinois without regard to its conflict of law rules. If any provision hereof shall be held invalid, prohibited or unenforceable under any applicable laws of any applicable jurisdiction, such invalidity, prohibition or unenforceability shall be limited to such provision and shall not affect or invalidate the other provisions hereof or affect the validity or enforceability of such provision in any other jurisdiction, and to that extent, the provisions hereof are severable. Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law.

6. Failure of the Village to require performance of any provision of this Agreement shall not affect the Village's right to require full performance thereof at any time thereafter, and the waiver by the Village of a breach of any provision of this Agreement shall not constitute or be deemed a waiver of a similar breach in the future, or any other breach, or nullify the effectiveness of any provisions of this Agreement. The rights and remedies of the Village in this Agreement are cumulative. The exercise or use of any other right or remedy provided herein or otherwise provided by law, nor shall exercise or use of any right or remedy by the Village waive any other right or remedy.

7. This Agreement constitutes the entire agreement of the parties hereto with respect to the subject matter hereof. This Agreement may not be amended, modified, revised, supplemented or restated except by a writing signed by each of the parties hereto.


8. The prevailing party in an action to enforce the covenants and agreements of this Agreement shall be entitled to all its reasonable costs, attorney's fees and expenses.

9. The executing representatives of the parties to this Agreement represent and certify that they are fully authorized to enter into the terms and conditions of this Agreement and to execute and legally bind that party to it.

**IN WITNESS WHEREOF**, the parties have executed this Environmental Indemnity Agreement as of the day, month and year first above written.



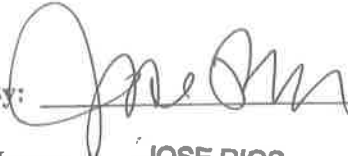
VILLAGE OF TINLEY PARK

By: 

Name: Jacob C. Vandenberg

Title: Village President

7-Eleven, Inc  
~~SEVEN ELEVEN, INC.~~

By: 

Name: JOSE RIOS

Title: MGR. ENVIRONMENTAL SERVICES