

**STATE OF RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

OFFICE OF COMPLIANCE AND INSPECTION

In Re: CARPARELLI ENTERPRISES, L.L.C.
BRITLEY, INC. and 7-ELEVEN, INC.

FILE NO.: OCI-UST-18-51-00506
AAD NO.: 19-006/WME

CONSENT AGREEMENT

A. INTENT & PURPOSE

This Agreement is entered by and between the Rhode Island Department of Environmental Management (“RIDEM”), CARPARELLI ENTERPRISES, L.L.C., BRITLEY, INC. and 7-ELEVEN, INC. (collectively, “Respondents”). This Agreement is entered in accordance with Section 42-17.1-2 *et seq.* of the Rhode Island General Laws (“R.I. Gen. Laws”) for the purpose of resolving the alleged violations set forth in a Notice of Violation (“NOV”) issued to Respondents on 27 February 2019.

B. STIPULATED FACTS

- (1) WHEREAS, the property is located at 11-13 Post Road, Assessor’s Plat 98, Lot 105 in the Town of Westerly, Rhode Island (the “Property”) and includes a convenience store and a motor fuel storage and dispensing system (the “Facility”).
- (2) WHEREAS, CARPARELLI ENTERPRISES, L.L.C. owns the Property.
- (3) WHEREAS, BRITLEY, INC. and 7-ELEVEN INC. operate the Facility.
- (4) WHEREAS, on 27 February 2019, RIDEM issued a NOV to Respondents alleging certain violations of the Rhode Island Code of Regulations titled *Rules and Regulations for Underground Storage Facilities Used for Petroleum Products and Hazardous Materials (250-RICR-140-25-1)* (the “UST Regulations”).
- (5) WHEREAS, among other allegations, the NOV alleges that there was a release of petroleum product on the Property (the “Release”).
- (6) WHEREAS, Respondents BRITLEY, INC. and 7-ELEVEN, INC. requested an administrative hearing to contest the NOV.
- (7) WHEREAS, the Administrative Adjudication Division is a division of RIDEM.
- (8) WHEREAS, in lieu of proceeding to an administrative adjudicatory hearing on the NOV and to affect a timely and amicable resolution of the NOV, RIDEM and Respondents

hereby agree that it is in the best interest of the parties and in the public interest to resolve the issues raised in the NOV.

- (9) WHEREAS, the Property is located in a GA groundwater classification zone, within 5,000 feet of a public water supply well, and within 500 feet of a wellhead protection area for a community water supply.
- (10) WHEREAS, on June 15, 2020, in the course of investigating and performing remedial action to address the Release, per- and polyfluoroalkyl substances (“PFAS”) were detected in groundwater samples that had been collected from groundwater monitoring wells installed on the Property. In light of that discovery, the Department cannot consider any future Corrective Action Plan for the remediation of the release that does not take into account the prevention of PFAS mobilization.
- (11) WHEREAS, RIDEM finds that this Agreement is a reasonable and fair settlement of all claims against Respondents and adequately protects the public interest in accordance with the UST Regulations.

C. AGREEMENT

- (1) JURISDICTION – RIDEM has jurisdiction over the subject matter of this Agreement and has personal jurisdiction over Respondents.
- (2) FORCE and EFFECT – This Agreement shall have the full force and effect of a final compliance order issued after a full hearing on the merits pursuant to the Administrative Procedures Act, R.I. Gen. Laws Section 42-35-1 et seq. and R.I. Gen. Laws Section 42-17.7-1 et seq. from which no timely appeal was taken, and which is enforceable in Superior Court in accordance with R.I. Gen. Laws Section 42-17.1-2(21)(vi).
- (3) APPLICATION – The provisions of this Agreement shall apply to and be binding upon RIDEM, Respondents and their agents, servants, employees, successors, assigns and all persons, firms and corporations acting under, through and for Respondents in the performance of work relating to or impacting the requirements of this Agreement.
- (4) CONDITIONS – Respondents shall complete the following actions to comply with the Order section of the NOV:
 - (a) Submit a proposed *Corrective Action Plan* (“CAP”) in accordance with Part 1.14(I) of the UST Regulations and RIDEM’s August 31, 2020 letter (attached hereto as Exhibit A). Upon review, LRSMM shall provide written notification as either an *Order of Approval* or stating the deficiencies therein. **Within 14 days (unless a longer time is specified or agreed upon by RIDEM and Respondents) of receiving a notification of deficiencies in the CAP**, submit to LRSMM a modified CAP or additional information necessary to correct the deficiencies.

- (b) Implement the CAP in accordance with an *Order of Approval* issued by LRSMM. All approved CAP activities shall be initiated within thirty (30) days of issuance of the *Order of Approval*.
- (c) All activities required in Section (4) of this Agreement shall be completed by February 28, 2022, unless extended by additional CAP requirements issued by LRSMM.
- (d) Any *Order of Approval* or other notification issued by LRSMM with regards to the CAP shall become enforceable as part of this Consent Agreement. Failure to comply with deadlines specified by LRSMM will be considered noncompliance with this Consent Agreement.
- (e) Respondent Carparelli Enterprises, L.L.C. shall record an Environmental Land Use Restriction (“ELUR”) and a Soil Management Plan (“SMP”) restricting groundwater use and preventing unauthorized soil disturbance at the Property, in a form approved by the Department in the Land Evidence Records for the Town of Westerly. A final, Department-approved ELUR and SMP shall be recorded in the Land Evidence Records for the Town of Westerly by February 28, 2022.
- (f) Respondents shall fully comply with the requirements set forth in Part 1.9 F(2) of the UST Regulations concerning any claims for reimbursement from the Rhode Island UST Financial Responsibility Fund.
- (g) Penalty – Respondents shall pay to RIDEM the sum of **\$20,000** in administrative penalties assessed as follows:
 - (i) Contemporaneously with the execution of this Agreement by Respondents, Respondents shall pay to RIDEM the sum of **\$20,000**.
 - (ii) Penalties that Respondents agree to pay in this Agreement are penalties payable to and for the benefit of the State of Rhode Island and are not compensation for actual pecuniary loss.
 - (iii) All penalty payments shall be in the form of a company check payable to the ***R.I. General Treasurer – Water and Air Protection Program***. All payments shall be delivered to:

Administrator, RIDEM Office of Compliance and Inspection
235 Promenade Street
Providence, RI 02908-5767

D. COMPLIANCE

- (1) EFFECT OF COMPLIANCE – Compliance with and fulfillment of this Agreement shall be deemed to resolve all issues, regarding RIDEM and Respondents, raised in the NOV.
- (2) FAILURE TO COMPLY – If Respondents fail to comply with items specified in subsection C (4)(a) through (e) of the Agreement, Respondents shall pay a stipulated penalty of \$500 per month for each and every month during which the noncompliance continues, except that RIDEM may, for good cause shown, defer or reduce such penalty. The payment of a penalty in accordance with this section shall not preclude RIDEM from seeking any other appropriate remedy (e.g., injunctive relief in Superior Court).
- (3) COMPLIANCE WITH OTHER APPLICABLE LAWS – Compliance with the terms of this Agreement does not relieve Respondents of any obligation to comply with any other applicable laws or regulations administered by, through or for RIDEM or any other governmental entity.
- (4) ADDITIONAL ENFORCEMENT ACTIONS – Upon a determination by the Director that there is a threat to the public health or the environment, or upon discovery of any new information, RIDEM reserves the right to take additional enforcement actions as provided by statute or regulation, including, but not limited to, the issuance of “Immediate Compliance Orders” as authorized by R.I. Gen. Laws Section 42-17.1-2(21). This Agreement shall not restrict any right to hearing or other right available by statute or regulation that Respondents may have regarding any new enforcement action commenced by RIDEM after the execution of this Agreement.
- (5) FUTURE ACTIVITIES AND UNKNOWN CONDITIONS – This Agreement shall not operate to shield Respondents from liability arising from future activities, as of the date of execution of this Agreement.
- (6) SCOPE OF THE AGREEMENT – The scope of the Agreement is limited to violations alleged in the NOV.
- (7) NOTICE AND COMMUNICATION – Communications regarding this Agreement shall be directed to:

Tracey D’Amadio Tyrrell
RIDEM Office of Compliance and Inspection
235 Promenade Street
Providence, RI 02908-5767
(401) 222-1360

Susan Forcier, Esq.
RIDEM Office of Legal Services
235 Promenade Street
Providence, RI 02908-5767
(401) 222-6607

N. Tobias Smith, Esq.
Clark Hill Strasburger
901 Main Street, Suite 6000
Dallas, Texas 75202-3794
(214) 651-4300

George Comolli, Esq.
15 Franklin Street
Westerly, Rhode Island 02891

- (a) Notice of any change in address/telephone/fax of either party shall be sent to all other parties by certified mail.
- (b) All communications regarding compliance with this Agreement shall be forwarded to the above-referenced addressees by certified mail.
- (8) DEFERRAL – The Director may, for good cause shown, defer any of the compliance dates prescribed herein. Good cause for deferral of any compliance date shall be forwarded to RIDEM in writing at least 15 days prior to the prescribed deadline or as soon as reasonably practicable.
- (9) AMENDMENT – The Agreement may be amended by agreement of the parties in writing.
- (10) EFFECTIVE DATE – This Agreement shall be deemed entered as of the date of execution by all parties.

IN WITNESS WHEREOF, the undersigned consent to this Agreement in substance and in form.

BRITLEY, INC.

By: _____
Print Name: _____ Title: _____

Dated: _____

In my capacity, as _____ of BRITLEY, INC., I hereby aver that I am authorized to enter into this Agreement and thereby bind BRITLEY, INC. to satisfy any obligation imposed upon it pursuant to said Agreement.

STATE OF RHODE ISLAND
COUNTY OF _____

In _____, in said County and State, on this _____ day of _____, 2022, before me personally appeared _____, the _____ of BRITLEY, INC., a Rhode Island corporation, to me known and known by me to be the party executing the foregoing instrument on behalf of BRITLEY, INC., and he/she/they acknowledged said instrument by him/her/they executed, to be his/her/their free act and deed in said capacity and the free act and deed of BRITLEY, INC.

Notary Public
My Commission Expires: _____

7-ELEVEN, INC.

By: _____
Print Name: _____ Title: _____

Dated: _____

In my capacity, as _____ of 7-ELEVEN, INC., hereby aver that I am authorized to enter into this Agreement and thereby bind 7-ELEVEN, INC. to satisfy any obligation imposed upon it pursuant to said Agreement.

STATE OF TEXAS
COUNTY OF _____

In _____, in said County and State, on this _____ day of _____, 2021, before me personally appeared _____, the _____ of 7-ELEVEN, INC., a _____ corporation, to me known and known by me to be the party executing the foregoing instrument on behalf of 7-ELEVEN, INC., and he/she/they acknowledged said instrument by him/her/they executed, to be his/her/their free act and deed in said capacity and the free act and deed of 7-ELEVEN, INC.

Notary Public
My Commission Expires: _____

Carparelli Enterprises, L.L.C.

By: _____
Print Name: _____ Title: _____

Dated: _____

In my capacity, as _____ of CARPARELLI ENTERPRISES, L.L.C., I hereby aver that I am authorized to enter into this Agreement and thereby bind CARPARELLI ENTERPRISES, L.L.C. to satisfy any obligation imposed upon it pursuant to said Agreement.

STATE OF RHODE ISLAND
COUNTY OF _____

In _____, in said County and State, on this _____ day of _____, 2022, before me personally appeared _____, the _____ of CARPARELLI ENTERPRISES, L.L.C., a Rhode Island corporation, to me known and known by me to be the party executing the foregoing instrument on behalf of CARPARELLI ENTERPRISES, L.L.C., and he/she/they acknowledged said instrument by him/her//them executed, to be his/her/their free act and deed in said capacity and the free act and deed of CARPARELLI ENTERPRISE, L.L.C.

Notary Public
My Commission Expires: _____

State of Rhode Island, Department of Environmental
Management

By: _____
David E. Chopy, Administrator
Office of Compliance and Inspection

Dated: _____