

Agreement, Release and Consent to Access

This Agreement, Release and Consent to Access is made and entered into by and between the City of North Royalton and F.R.M. Service, Inc. to provide the City of North Royalton, Ohio EPA, their representatives, agents or assigns, and subcontractors access to the property located at 11260 State Road (“the property”) to perform any and all activities specified in The City of North Royalton’s application for targeted brownfield assessment work from Ohio Environmental Protection Agency (Ohio EPA).

I. Background Information

- A. F.R.M. Service, Inc. is the property owner of the parcel located at 11260 State Road, North Royalton, Ohio 44133 (Parcel #488-03-031). This property is the location of the former (State & Wallings Marathon station), which is a Bureau of Underground Storage Tank Regulations (BUSTR) regulated site
- B. The City of North Royalton at the request of the property owner will file an application for a targeted brownfield assessment, for which Ohio EPA would perform environmental assessment activities at the property.
- C. As one of the conditions of receiving targeted brownfield assessment work from Ohio EPA, The City of North Royalton must demonstrate that it can access the property to perform the activities specified in the application.
- D. The City of North Royalton and F.R.M. Service, Inc. wish to enter into an agreement to allow The City of North Royalton, Ohio EPA, its representatives, agents or subcontractors sufficient access to the property to perform the activities specified in The City of North Royalton’s application for targeted brownfield assessment work.

II. Statement of the Agreement

NOW, THEREFORE, in consideration of the mutual covenants contained herein, The City of North Royalton and F.R.M. Service, Inc. agree as follows:

- A. F.R.M. Service, Inc. hereby unconditionally gives The City of North Royalton, Ohio EPA, its agents, representatives, or subcontractor’s permission to access the property to conduct any and all activities specified in The City of North Royalton’s application for targeted brownfield assessment work, including but not limited to the following:
 - Site Visits;
 - Installation of piezometer monitoring wells, if necessary;
 - Sampling of soil using our Geoprobe;
 - Sampling of ground water using piezometer monitoring wells;
 - Return to the property for re-sampling of any of the above, per BUSTR requirements.
- B. F.R.M. Service, Inc. shall make reasonable efforts to ensure that access to the property is provided to Ohio EPA, its representatives or subcontractors such that Ohio EPA can perform all activities specified in The City of North Royalton’s application for targeted brownfield assessment work from Ohio EPA.
- C. By giving consent, the authorized signatory does not waive or otherwise compromise the property owner's rights under federal, state, or local law, nor under common law, with the exception of those rights waived in giving consent.
- D. F.R.M. shall release, indemnify and hold harmless the City of North Royalton for any and all claims which it or third parties may have as a result of the application or its related activities.

- E. City of North Royalton assumes no liability for damages caused as a result of third parties, including but not limited to Ohio EPA, its representatives or subcontractors' negligent acts while conducting activities on the property.
- F. Upon completion of the activities specified in The City of North Royalton's application for targeted brownfield assessment work, the Ohio EPA will exert its best effort to esthetically restore any portion of the property substantially disturbed by its activities to its previous condition.
- G. This Agreement is intended to provide The City of North Royalton, Ohio EPA, its representatives or subcontractors with access to the property only, and shall not be construed to provide The City of North Royalton or Ohio EPA with any other rights with respect to the property.
- H. Parties agree and acknowledge that Ohio EPA will be working in conjunction with BUSTR.

I understand and acknowledge the significance and consequence of the Release and Authorization. I am not relying on any inducements, promises or representations made by the City through its employees, agents or representatives in signing this authorization and release. I understand I have the right to consult with an attorney.

The parties have hereto caused this Agreement, Release and Consent to Access to be executed by their respective officers thereunto duly authorized on the day and year set forth below. By authorized signature, Ohio EPA and its representatives are hereby given consent to enter property owned by F.R.M. Service, Inc.

The City of North Royalton:

By: _____ Date: _____
 Title: Mayor Robert Stefanik

Approved as to Form: _____
 Law Director

F.R.M. Service, Inc.

By: _____ / _____
 Signature Date

 Floyd Gapas (signing on behalf of F.R.M. Service, Inc.) Title: _____

 Address

Please return to: Megan Oravec, DERR - SABR
 Ohio Environmental Protection Agency
 50 W. Town Street, Suite 700 Columbus, Ohio 43216

Application Form for Targeted Brownfield Assessment from Ohio EPA

Section 1 - Property description:

1. Provide the property name and any aliases or historic names:

F.R.M. Service, Inc.; State & Wallings Marathon

2. Provide the street address(es) of the property and residing county:

11260 State Road, North Royalton, Ohio 44133, Cuyahoga County

3. Provide the property latitude and longitude (in [decimal degrees](#)):

41 ° N

81 ° W

4. Define the size of the property to be assessed (in acres): .34

5. Submit property location data as an 8.5x11 hardcopy image which contains a clearly delineated property boundary displayed on top of a high resolution aerial photograph or a USGS 7.5 minute topographic map. (attached)

6. Describe any potential hazards at the property, including any asbestos surveys that have been conducted:

Former gas station tanks leak

Section 2 - Eligibility:

7. Is the applicant a potentially responsible party that has caused or contributed to the contamination of the property to be assessed, or did the applicant own the property at the time contamination occurred?

Yes



Funding cannot be used to assist potentially responsible parties.

No

8. Does the property meet the definition of "Brownfield" as defined in the federal [Small Business Liability Relief and Brownfields Revitalization Act](#) (Section 211(a)(39) of the Public Law 107-118 (H.R. 2869)), or in [Ohio Revised Code Section 122.65\(D\)](#)?

Yes

The property is an abandoned or vacant industrial/commercial facility.

If yes, explain how long the property has been vacant or abandoned and the circumstances surrounding its disuse:

Yes

The property is an active, but underutilized industrial/commercial use.

If yes, what percentage of the property is currently utilized:

The building is used as a service garage and parts store. It comprises 8% of the property.

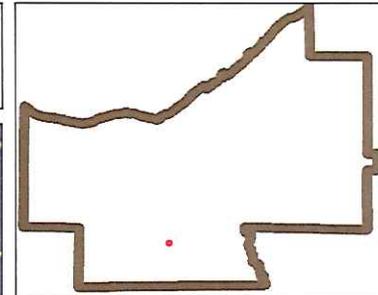
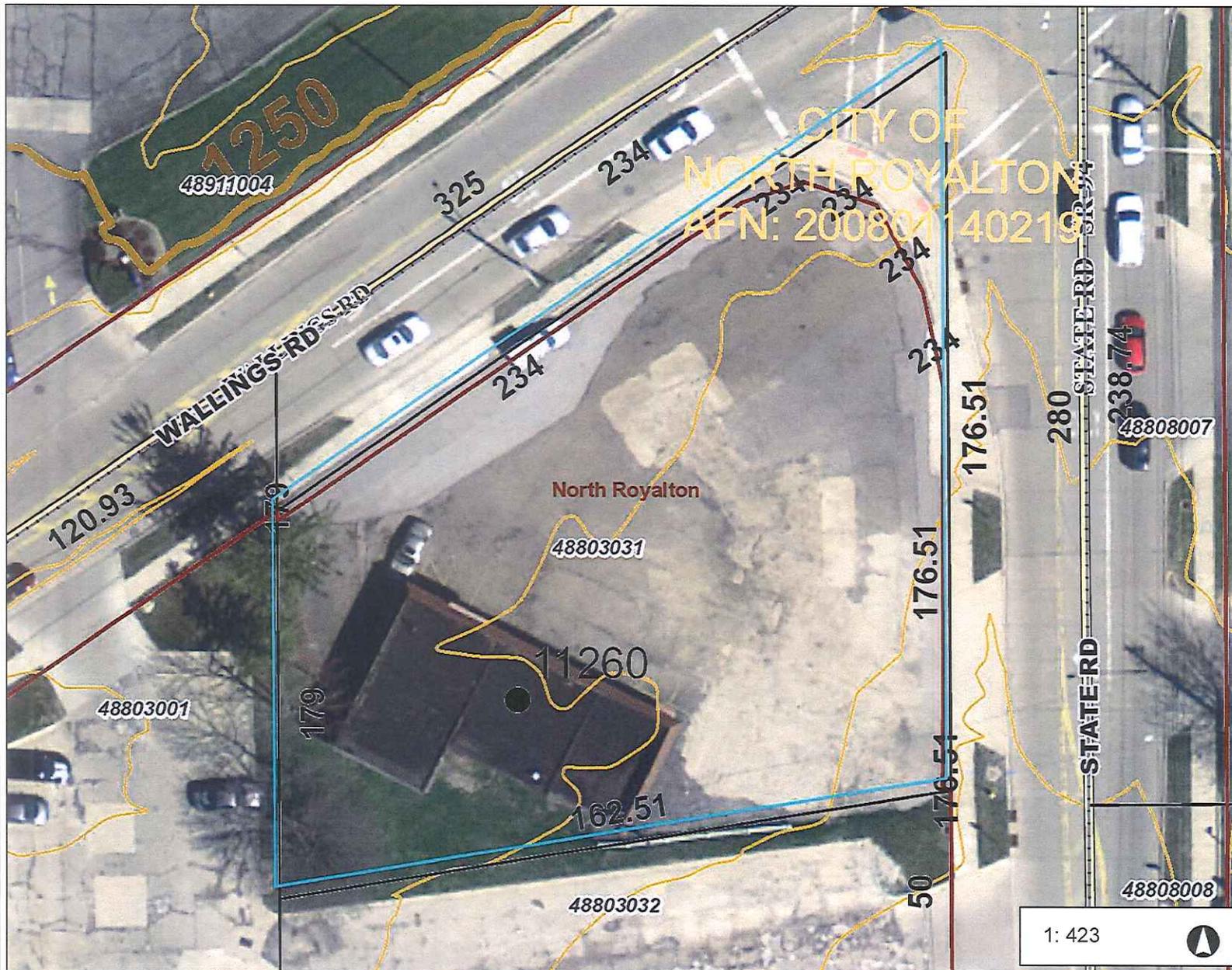
No



Not eligible for Targeted Brownfield Assessment funds, although Ohio EPA's services may still be available as paid technical assistance.



11260 State Road



Date Created: 10/6/2015

Legend

- Address Points
- Cuyahoga County Facility
- Point Parcels
- Right Of Way
- Platted Centerlines
- Parcels
- Interstate
- US Route
- State Route
- County Road
- Township Road
- Municipal Street
- Railroads
- Airfields
- Bridge Decks
- Municipalities
- Elevation Contours**
 - 10 Foot
 - 2 Foot
 - 10 Foot Depression
 - 2 Foot Depression



Projection:
WGS_1984_Web_Mercator_Auxiliary_Sphere

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.
THIS MAP IS NOT TO BE USED FOR NAVIGATION



9. Does the applicant have or can it obtain access to 100% of the property to be assessed by Ohio EPA personnel, their agents, and BUSTR staff, if necessary? Please complete access agreement for all parcels included in this application (APPENDIX A.)

Yes Applicant owns property and access agreement is attached.

If the applicant owns the property, does it meet [All Appropriate Inquiries](#) requirements?

Yes If yes, on what date did the applicant take ownership? _____

If yes, how did the applicant take ownership?

Tax default or eminent domain

Purchase

Other (explain): _____

If the applicant owns the property and did not take ownership by tax default or eminent domain, please submit a copy of the Phase I/All Appropriate Inquiries assessment that was conducted prior to the applicant taking ownership.

No

Yes Property is an orphan property (any property for which there is no person liable for cleanup or remediation costs under 42 USC § 9607 who has the ability to pay those costs.)

Yes Access agreement is in place with current owner(s) and attached to this application.

No Presently working on an access agreement with current owner(s).

No  Project is ineligible if the local government cannot obtain an access agreement.

10. Has the applicant received in the past, is it currently receiving, or has it applied for federal brownfield assessment or cleanup funding for this property?

Applied Already applied for but not currently receiving funding.

Receiving Currently receiving Federal Brownfield Funding may prohibit the use of Ohio EPA's services.

Received in past If yes, list the activities for which the funds were used:

No federal funding Explain. *In order to receive a federally funded TBA, U.S. EPA requires that communities explain why they are pursuing targeted brownfield assessment funding through this State program rather than seeking a competitive Brownfield grant. Responses may include discussions related to needing data expeditiously, needing Phase I for property transaction, limited sampling needed, timing issues, etc)*

City does not have resources to assist in this project.

11. Is any of the following true:

(1) The property includes a facility or facilities listed (or proposed) on the National Priorities List (NPL).

(2) The property includes a facility subject to unilateral administrative orders, court orders, administrative orders on consent, or judicial consent decrees issued to or entered into by parties under CERCLA.

(3) The property includes a facility or facilities that are subject to the jurisdiction, custody, or control of the United States government.

No

Yes  Ineligible for federal TBA funds.

12. Is any of the following true:

- (1) The property is subject to current or ongoing CERCLA removal actions.
- (2) The property is subject to unilateral administrative orders, court orders, administrative orders on consent or judicial consent decrees or to which a permit has been issued by the United States or an authorized state under the Solid Waste Disposal Act (as amended by the Resource Conservation and Recovery Act (RCRA)), the Federal Water Pollution Control Act (FWPCA), the Toxic Substances Control Act (TSCA), or the Safe Drinking Water Act (SDWA).
- (3) The property is subject to corrective action orders under RCRA (sections 3004(u) or 3008(h)) and to which a corrective action permit or order has been issued or modified to require the implementation of corrective measures.
- (4) The property includes land disposal units that have filed a closure notification under subtitle C of RCRA and to which closure requirements have been specified in a closure plan or permit.
- (5) There has been a release of polychlorinated biphenyls (PCBs) and are subject to remediation under TSCA.
- (6) Funding for remediation has been obtained from the Leaking Underground Storage Tank (LUST) Trust Fund?

No

Yes Explain:

If "Yes" is checked above, please attach the required documents for a U.S. EPA Property-Specific Determination for Funding, as described in the most recently published version of the [Proposal Guidelines for Brownfields Assessment, Revolving Loan Fund, and Cleanup Grants](#). Otherwise, the project is ineligible for federal TBA funds.

13. Is the property owned by the state of Ohio?

Yes *Only eligible for Phase I Assessment*

No

14. Is the property a former gas station or has it been contaminated by petroleum products?

Yes Please complete the BUSTR-specific access agreement (APPENDIX A.)

No

Section 3 – Project details:

15. Is there a confirmed end user in place for this property?

Yes Explain:

Yes A developer is in place, but no final end users confirmed.

No Project is included in community's master plan or being evaluated for redevelopment.

No Not included in community's master plan, nor being evaluated for redevelopment.

16. Is there a health, safety or ecological concern at this property? Check all that apply:

- The property is currently occupied by residents or employees.
- The property poses a physical hazard to trespassers, or is an attractive nuisance.
- The property may be affecting residents or employees at adjacent properties.
- The property includes or is adjacent to a sensitive ecological area (such as a stream, river or wetland) that may be affected.

17. Has a Phase I assessment been completed?

- Yes Please submit a copy with this application.
No

18. Has any Phase II work been accomplished?

- Yes Please provide a copy of any data.
No

19. The type of work requested is:

- Phase I Assessment
 ASTM Compliant VAP Compliant All Appropriate Inquiry Compliant
- Phase II Assessment Screening - (Mobile Lab and Geoprobe to determine if contamination exists)
- Phase II Assessment Supplemental – (Phase II already exists, but additional delineation needed)
- Ecological Assessment – (Surface water quality assessment)

Note: If a sampling plan has already been developed by a consultant, please provide a copy.

20. Have resources been expended on assessment at this property, including local, state and/or federal grants and loans?

- Yes If yes, provide the name(s) and amount of the funds used:

- No Explain:
No resources have been expended.

21. Is there a specified timeline in which site assessment activities need to be performed?

- No
Yes Please define timeline/deadlines for the project (if applicable, include grant application deadlines, timelines for redevelopment, etc.):
