



**New Hampshire
Employment
Security**

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ADMINISTRATIVE OFFICE

45 SOUTH FRUIT STREET
CONCORD, NH 03301-4857



GEORGE N. COPADIS, COMMISSIONER

RICHARD J. LAVERS, DEPUTY COMMISSIONER

August 12, 2016

Her Excellency, Governor Margaret Wood Hassan
and the Honorable Council
State House
Concord, NH 03301

REQUESTED ACTION

Pursuant to RSA 4:8, authorize New Hampshire Employment Security (NHES) to accept a donation from MetScott 21, LLC, the owner of property located at 19-23 South Broadway, Salem, NH, of an Access Easement, which provides ingress and egress to and from NHES' Salem Local Office using a common driveway that will be located on MetScott's property.

EXPLANATION

NHES owns and operates the Salem Local Office, located at 29 South Broadway in Salem, New Hampshire. Following receipt of a notice from the Salem Planning Board, NHES became aware that its immediate abutter, MetScott 21, LLC, was constructing a second driveway on its South Broadway frontage, parallel to and only twenty (20) feet from NHES' Local Office driveway. This location presented safety concerns, including the possibility of conflicting turning movements onto a very busy roadway. NHES was asked by the Planning Board if it would consider sharing a common driveway with the abutter in order to allow a full and economical redevelopment of the abutter's commercial property. Following negotiations regarding the terms of the use and maintenance of the common driveway, an agreement was reached.

In keeping with the terms of the Agreement for Common Driveway, NHES will receive an Access Easement granting it full legal ingress and egress rights over and through the common driveway to serve the needs of the Salem Local Office. This is necessary in part because, in order to address the safety issues, NHES' existing driveway is required by the Planning Board to be closed. At this point in time, all issues between NHES and MetScott 21, LLC have been resolved and all that remains is for NHES to be granted authority to accept the Access Easement in its favor. No appraised value has been obtained or established because the easement rights simply allow NHES the use of a new driveway that replaces its existing driveway. The common driveway will serve the needs of NHES while allowing an economically feasible development of the abutting property.

A copy of the Agreement for Common Driveway is attached.

Respectfully submitted,

George N. Copadis
Commissioner

AGREEMENT FOR COMMON DRIVEWAY

WHEREAS, MetScott 21, LLC ("MetScott") is the owner of 19-23 South Broadway, Salem, New Hampshire, located at Map 89, Lots 938 and 1088, and New Hampshire Employment Security (NHES) is the owner of the adjacent parcel, 29 South Broadway, Salem, New Hampshire (also referred to as the "Salem Local Office"), located at Map 98, Lot 939. (MetScott and NHES are collectively referred to herein as "the Parties");

WHEREAS, the Parties' respective premises are shown on plans entitled: "Site Development Plans for Scott Companies, Assessors Map 89, Lot 938, 23 South Broadway, Salem NH 03079;"

WHEREAS, as reflected in Planning Board Minutes for the meeting of February 10, 2015, Item #4, the Town of Salem Planning Board voted to accept as complete a revised Site Plan submitted by MetScott (retail and office uses, parking layout, signs and landscaping), which included a second driveway at the southerly end of 23 South Broadway;

WHEREAS, pursuant to the application and approval process, MetScott and NHES have agreed that access to the southerly frontage of MetScott's property shall be via a common driveway to be shared with NHES' Salem Local Office;

NOW THEREFORE, in consideration of the anticipated approval of the newly revised Site Plan, to include the items discussed below, and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

ARTICLE I

1. Access Easement. As a condition of this Agreement, MetScott shall grant to NHES an Access Easement to be enjoyed by NHES, its officers, directors, managers, employees, customers, and their invitees and guests, for the purpose of access to and egress from South Broadway and/or the public way formerly known as "South Broadway" should the name ever be changed in the future. The Access Easement shall include all rights that typically accompany such an easement, such as the right to repair, pave, seal, maintain (including snowplowing, salting and/or sanding) a common driveway. No parking shall be permitted in the common driveway, nor shall any other use be made of the common driveway that would interfere with the rights of others entitled to its use. The easement shall be granted to NHES by MetScott prior to closing off the existing driveway serving 29 South Broadway.

2. Construction and Maintenance. All work performed in connection with the construction of the common driveway shall be performed in a workmanlike manner, in accordance with the Site Development Plan for Scott Companies, Map 89, Lot 938, DWG Name: 3432SP.DWG, Sheet No. 4, dated January 23, 2015 (the "Plan"), attached hereto as Exhibit 1. Upon completion of the work, all disturbed areas shall be cleared of debris, suitably graded and left in an attractive condition.

3. Utility Easement. MetScott shall also grant to NHES a Utility Easement, which shall include a non-exclusive easement for utility purposes including, but not limited to, the right to install, repair, maintain and replace, above or below ground, telephone, electric, cable television, natural gas, water, sewer or other utilities as may be needed in connection with the relocation of the existing driveway and establishment of the new common driveway.

ARTICLE II

The common driveway, to the extent located on MetScott's property, shall remain the property of MetScott. The approval of the revised Site Plan shall not be construed as an offer or dedication of the common driveway as a public highway under common law of the State of New Hampshire. The Town of Salem will not have any obligation to maintain the common driveway.

ARTICLE III

MetScott shall be solely responsible for paying all construction costs, permitting costs and sign relocation costs in connection with construction of the common driveway and related work. NHES shall not be responsible for and shall not be billed for any such work.

ARTICLE IV

NHES' existing freestanding business sign shall be relocated by MetScott as shown on the Plan. A sign stating "NH Employment Security Parking Only Monday – Friday 6:00 a.m. to 5:00 p.m." will be installed as shown on the Plan. A "Do Not Block Driveway" sign will be installed as shown on the Plan. All signs discussed herein shall be relocated and/or installed and/or constructed at the sole cost of MetScott.

ARTICLE V

NHES's existing driveway will be closed following final Planning Board approval and completion of construction of the common driveway and other improvements. The existing sidewalk and curbing will be matched and extended along the NHES frontage, and existing pavement in the NHES parking lot area will be striped to add three (3) additional parking spaces, all as shown on the Plan. All such work described herein shall be conducted at the sole cost of MetScott.

ARTICLE VI

NHES shall allow MetScott the use of its parking lot for overflow parking on weeknights after 6:00 p.m. and on the weekends subject to the condition that the use not interfere with NHES' business operations or property maintenance (e.g. plowing) in any way. This use allowance is further conditioned upon MetScott's assent in Article VIII of this Agreement to indemnify and hold NHES harmless for any claim, demand, injury, loss or cost resulting from such use.

ARTICLE VII

MetScott shall be responsible for ordinary maintenance and plowing of the common driveway and shall not attempt to seek reimbursement from NHES for any such maintenance costs. MetScott shall perform any and all necessary repairs to the common driveway, with advance notice to be provided in the case of temporary lane closures, and shall maintain in force and provide NHES with evidence of premises liability and commercial general liability insurance on an annual basis.

ARTICLE VIII

To the fullest extent permitted by law, MetScott shall indemnify, hold harmless and defend NHES and the State of New Hampshire, and their respective officers, directors, officials and employees, from and against any and all losses, claims, damages, costs, expenses, and against liability of any nature arising out of or related to MetScott's use of the NHES Salem Local Office parking lot by MetScott's employees, tenants, guests, invitees or others who use the property through MetScott. MetScott shall provide proof of liability coverage for its overflow parking in the NHES parking lot. MetScott shall not be required by this agreement to indemnify or defend a party other than NHES and the State of New Hampshire and their respective officers, directors, officials and employees for that portion of any loss that is directly attributable to the negligence of that party. Nothing herein shall be deemed to constitute a waiver of the State's sovereign immunity, which immunity is hereby reserved to the State and its agencies.

ARTICLE IX

To facilitate performance of this Agreement, the following positions are designated as contact persons for each of the Parties:

For NHES:

Maria Dalterio, General Counsel
New Hampshire Employment Security
45 South Fruit Street
Concord, NH 03301

For MetScott:

Paul Westcott
Scott Companies
12 Rogers Rd.
Haverill, MA 01835

ARTICLE X

This Agreement will be construed in accordance with the laws of the State of New Hampshire and any action to enforce the terms of this Agreement shall be brought in the jurisdiction and venue of the courts of the State of New Hampshire.

Executed on this 10th day of August, 2016

MetScott 21, LLC
12 Rogers Road
Haverhill, MA 01845

By: Joseph J. Scott MANAGING MEMBER
(Printed Name and Title of Authorized Representative)

Joseph J. Scott
(Signature of Authorized Representative)

12 Rogers Road
Haverhill, MA 01835
(Address)

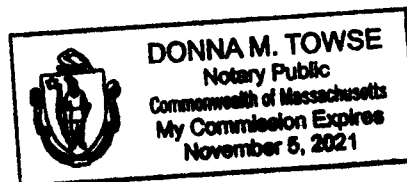
Massachusetts
State of ~~New Hampshire~~, County of Essex

Personally appeared before me this 10th day of August, 2016, the
above-named Joseph J. Scott, Authorized Representative of MetScott 21, LLC,
and acknowledged the foregoing to be his free act and deed.

Donna M. Towse

Notary Public/Justice of the Peace

My Commission Expires: 11-5-21



Executed on this 11th day of August, 2016

State of New Hampshire
Department of Employment Security
George N. Copadis, Commissioner
45 South Fruit Street
Concord, NH 03301

By: George N. Copadis, Commissioner
(Printed Name and Title of Authorized Representative)
[Signature]
(Signature of Authorized Representative)
45 South Fruit Street
Concord, NH 03301
(Address)

State of New Hampshire, County of Merrimack

Personally appeared before me this 11th day of August 2016, the
above-named George Copadis, Authorized Representative for the State of NH,
Department of Employment Security and acknowledged the foregoing to be his free act and
deed.

[Signature]
Notary Public/Justice of the Peace
My Commission Expires:

SEAN A. CASEY, Notary Public
State of New Hampshire
My Commission Expires April 22, 2020