

RESOLUTION NO. 326

AUTHORIZING THE COUNTY EXECUTIVE TO EXECUTE A LICENSE AGREEMENT WITH STEWART'S SHOPS CORP. TO CONTINUE THE USE OF PROPERTY AT 309 DELAWARE AVE, DELMAR, NEW YORK, AND AMENDING THE 2017 ALBANY COUNTY BUDGET

Introduced: 8/14/17

By Audit and Finance Committee:

WHEREAS, The County Executive has requested authorization to enter into an agreement with Stewart's Shops Corp. regarding the use of property at 309 Delaware Ave in Delmar, NY, and

WHEREAS, The license agreement with Stewart's Shops Corp. would allow for the continued use of the rear portion of the parking lot of the Stewart's Shop that encroaches upon the Albany County Rail Trail, in an annual amount of \$6,000, and

WHEREAS, The County Executive has also requested a budget amendment in order to accept such funding, now, therefore, be it

RESOLVED, By the Albany County Legislature that the County Executive is authorized to enter into a license agreement with Stewart's Shops Corp. for use of the rear portion of the parking lot in an annual amount of \$6,000, for a 3 year term from September 1, 2017, to August 31, 2020, and, be it further

RESOLVED, That said agreement may be terminated on 90 days notice by either party, and, be it further

RESOLVED, That the 2017 Albany County Budget is amended to incorporate said funding as follows:

Increase Revenue Account A2412 Rental of Real Prop-Oth Govts by \$6,000

Increase Appropriation Account A1620.4 by \$6,000 by increasing Line Item 1620 4 4071 Property Repair and Rental by \$6,000

and, be it further

RESOLVED, That the County Attorney is authorized to approve said license agreement as to form and content, and, be it further

RESOLVED, That the Clerk of the County Legislature is directed to forward certified copies of this resolution to the appropriate County Officials.

Adopted by unanimous vote. 8/14/17

LICENSE AGREEMENT
BETWEEN
THE COUNTY OF ALBANY, NEW YORK AND STEWART'S SHOPS CORP.

IN CONSIDERATION of payment to it of the hereinafter specified LICENSE fee the **COUNTY OF ALBANY, NEW YORK**, a municipal corporation organized and existing pursuant to the laws of the State of New York having its principal office located at 112 State Street, Albany, New York 12207 ("COUNTY") hereby grants to the **STEWART'S SHOPS CORP.**, a domestic business corporation organized and existing pursuant to the laws of the State of New York having its principal office located at P.O. Box 435 Saratoga Springs, New York 12866 ("LICENSEE") and its officers, employees, agents, contractors, suppliers, customers, and invitees, a License ("LICENSE") to at their own risk enter upon and non-exclusively use "as is" the hereinafter described area ("LICENSED AREA") of the COUNTY owned parcel of real property commonly known as the Albany County Rail Trail ("RAIL TRAIL"), which LICENSED AREA abuts the rear lot line of the premises owned by the LICENSEE located at 309 Delaware Avenue, Delmar, New York and is more specifically described in Exhibit "A" annexed hereto.

The LICENSEE hereby agrees to hold harmless and indemnify the COUNTY with respect to any and all liabilities, expenses, damages, claims, demands, causes of action, suits, debts, controversies, judgments, and/or executions whatsoever in law or equity or otherwise asserted, suffered or incurred by the COUNTY arising out of or in connection with the LICENSEE'S officers, employees, agents, contractors, suppliers, customers, and/or invitees entry upon and/or use of said LICENSED AREA pursuant to this LICENSE AGREEMENT.

The LICENSEE hereby agrees to at the time of the execution of this LICENSE AGREEMENT by it provide the COUNTY with satisfactory proof of workers' compensation and employers' liability insurance coverages of the LICENSEE'S employees while working within said LICENSED AREA and general liability coverage of personal and property injury and damage claims arising out of or in connection with the LICENSEE'S officers, employees,

agents, contractors, suppliers, customers, and/or invitees, entry upon and/or use of the LICENSED AREA pursuant to said LICENSE AGREEMENT. Said general liability insurance coverage of personal and property injury and damage claims shall have limits of not less than One Million (\$1,000,000) Dollars per claim, name the COUNTY as an additional insured entitled to prior notice of cancellation of said insurance coverage, and shall be considered primary.

The LICENSEE hereby agrees that the LICENSEE'S officers, employees, agents, contractors, suppliers, customers, and/or invitees, will not during the course of their entry upon and/or use of the LICENSED AREA pursuant to this LICENSE AGREEMENT, damage and/or environmentally contaminate said LICENSED AREA and that, if such damage and/or environmental contamination is caused by the LICENSEE'S officers, employees, agents, contractors, suppliers, customers, and/or invitees entry upon and/or use of said LICENSED AREA, the LICENSEE will at its sole cost and expense promptly repair said damage and/or without contribution from the COUNTY remediate said environmental contamination to the satisfaction of the COUNTY.

The LICENSEE hereby agrees that it will not during the initial or any renewal term of this LICENSE AGREEMENT without obtaining the written advance consent of the COUNTY prevent persons from parking as invitees in the parking spaces numbered 16, 17 and 18 as shown on the attached map of said LICENSED AREA, which parking spaces the LICENSEE hereby agrees to designate as for use by Rail Trail users only.

This LICENSE AGREEMENT shall be for a term of three years commencing on September 1, 2017 and ending on August 31, 2020 with the LICENSEE having the option to renew this LICENSE AGREEMENT for three successive three year terms.

This LICENSE AGREEMENT may however be terminated by either party at any time with or without cause upon giving ninety (90) days advance written notice to the other party.

The LICENSEE as consideration for the LICENSE hereby granted shall pay the COUNTY an annual fee of SIX THOUSAND (\$6,000.00) DOLLARS due and payable in advance beginning on the execution date of this LICENSE AGREEMENT by the LICENSEE and continuing each year on said date during the initial and any renewal term of this LICENSE AGREEMENT, which fee shall be refunded pro-rata in the event this LICENSE AGREEMENT is beforehand terminated by either party.

The LICENSEE shall while this LICENSE AGREEMENT remains in effect at its sole cost and expense repair, maintain in good condition, keep clean, and remove ice and snow from the LICENSED AREA.

The LICENSEE shall at the COUNTY'S request upon the expiration or termination beforehand of this LICENSE AGREEMENT at the LICENSEE'S sole cost and expense remove all of the pavement and its base materials located within the LICENSED AREA and grade and cover the LICENSED AREA with grass seeded top soil to the satisfaction of the COUNTY.

Neither this LICENSE AGREEMENT, nor the LICENSE thereby granted, may be assigned by the LICENSEE without the consent of the COUNTY.

IN WITNESS WHEREOF the COUNTY and the LICENSEE have executed this LICENSE AGREEMENT on the below indicated dates.

COUNTY

The COUNTY OF ALBANY, NEW YORK

By _____, _____
(Authorized Signature) (Title)

(Print Name Signed)

Date Signed _____, 2017

LICENSEE

STEWART'S SHOPS CORP.

By _____,
(Authorized Signature) (Title)

(Print Name Signed)

Date Signed _____, 2017

STATE OF NEW YORK)
) ss.:
COUNTY OF ALBANY)

On the _____ day of _____ in the year 2017, before me, the undersigned, a Notary Public in and for said State, personally appeared _____ personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed in the within instrument and acknowledged to me that he/she executed the same in his/her capacity as _____, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, to wit The COUNTY OF ALBANY, NEW YORK, executed the instrument.

NOTARY PUBLIC - STATE OF NEW YORK

STATE OF NEW YORK)
) ss.:
COUNTY OF ALBANY)

On the _____ day of _____ in the year 2017, before me, the undersigned, a Notary Public in and for said State, personally appeared _____ personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed in the within instrument and acknowledged to me that he/she executed the same in his/her capacity as its _____, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, to wit: STEWART'S SHOPS CORP., executed the instrument.

NOTARY PUBLIC - STATE OF NEW YORK