

RESOLUTION No. 2021-005

Resolution Determining the Restrictions Applicable to the Haight Trust, Lamont Christmas Tree Trust, and the Nine Partners Trust to be Impracticable, Impossible to Achieve and Wasteful

At a meeting of the Village of Millbrook Board of Trustees (“Village Board”) held on the 10th day of March 2021, Mayor Collopy introduced the following resolution, which was seconded by Trustee Contino, reading as follows:

WHEREAS, Frances Haight, by the terms of her last will and testament dated July 3, 1930, which is believed to have been probated by the Dutchess County Surrogate’s Court on or about September 22, 1930, bequeathed the sum of Fifteen Thousand and 00/100 (\$15,000.00) Dollars to the Village of Millbrook to be held by the Village Board as a trust fund with the limitation that the income be used for “general public improvements within the limits of [the] village” (A copy of the Will of Frances Haight is annexed hereto as Exhibit “A”; and

WHEREAS, Elizabeth K. Lamont, in or about January of 1943, donated the sum of Two Thousand Four Hundred and 00/100 (\$2,400.00) Dollars to the Village to hold as a trust fund and to use the income “primarily to defray the expenses of lighting the Community Christmas Tree” at three (3) of the churches in the Village, Lyall Memorial Federated Church, St. Joseph’s Catholic Church or the Grace Episcopal Church (A copy of the letter from Elizabeth K. Lamont to the Village dated January 29, 1943 is annexed hereto as Exhibit “B” ; and

WHEREAS, Elizabeth K. Lamont further provided that any balance of income remaining after the payment of the expenses of lighting the tree that year shall be limited to use by the parish where the tree was lit to be used for parish benevolences; and

WHEREAS, the Village currently maintains a bank account titled “the Nine Partners Trust” which currently contains the sum of approximately \$25,289.14 Dollars; and

WHEREAS, after diligent research by the current Village Board, which included contacting former Board members and officers of the Village as well as discussions with bank employees, the Village Board has been unable to determine the source of the funds in the Nine Partners Trust or determine the exact date the Village acquired the funds contained in the Nine Partners Trust account; and

WHEREAS, based on the information the Board has been able to obtain regarding the Nine Partners Trust account, the Board has determined the account was established more than thirty (30) years ago; and

WHEREAS, the current balance of the Haight Trust is approximately \$15,680.24 and the current balance of the Lamont Christmas Tree Trust is approximately \$2,458.25; and

WHEREAS, the annual income produced by the Haight Trust, the Lamont Christmas Tree Trust and the Nine Partners Trust is insufficient to provide the Village with the means to fulfill the intended purposes of the donors of those funds or any other meaningful Village purpose; and

WHEREAS, the Village Board now wishes to be able to invade the principal of all three Trust accounts for the purpose of using the funds to fulfill the intended purposes of the Trusts in the case of the Haight Trust and the Lamont Christmas Tree Trust and to use the funds for general Village improvements in the case of the Nine Partners Trust; and

WHEREAS, after a diligent search, the Village Board has not been able to identify or locate any descendants of either Frances Haight or Elizabeth K. Lamont and anyone who may have an interest in the Nine Partners Trust; and

WHEREAS, Section 555(d)(1) of the New York Not for Profit Corporation Law provides the authority to release or modify a restriction on a fund if (1) the institution holding the fund

determines the restriction to be “unlawful, impracticable, impossible to achieve, or wasteful”, (2) the fund subject to the restriction is less than \$100,000.00 and was established more than twenty (20) years ago, (3) the New York State Attorney General raises no objection to releasing the restriction within ninety (90) days after Notice from the institution; and (4) the institution uses the funds in a manner consistent with purposes expressed by the donor; and

NOW, THEREFORE, BE IT RESOLVED, The Village Board hereby determines the restrictions contained in the gift instruments establishing the Haight Trust and the Lamont Christmas Tree Trust, and any restrictions which may exist on the Nine Partners Trust, are impracticable, impossible to achieve and wasteful because the income produced by those funds is insufficient to fund any Village improvement or project; and

BE IT FURTHER RESOLVED, the current balances of the Haight Trust, the Lamont Christmas Tree Trust and the Nine Partners Trust are all below \$100,000.00 and the funds in all three (3) Trust accounts were received by the Village more than twenty (20) years ago; and

BE IT FURTHER RESOLVED, the Village Board determines that it intends to use the principal and interest of the funds in the Haight Trust for general public improvements within the Village; and

BE IT FURTHER RESOLVED, the Village Board determines that it intends to use the principal and interest of the funds in the Lamont Christmas Tree Trust for holiday decorations in the Village; and

BE IT FURTHER RESOLVED, the Village Board determines that it intends to use the principal and interest of the funds in the Nine Partners Trust for general public improvements within the Village; and

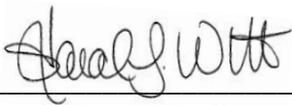
BE IT FURTHER RESOLVED, the Village Board directs the Village Attorney to provide Notice to the New York State Attorney General, and any other necessary parties, in accordance with Section 555(d)(1) of the New York State Not for Profit Corporation Law stating the determinations of the Village Board contained herein;

BE IT FURTHER RESOLVED, the Village Board shall use the principal and interest in all three (3) Trust funds for the stated purposes contained herein if the Village Board does not receive any response from the New York State Attorney General within ninety (90) days from the date Notice is provided to the Attorney General in accordance with this Resolution.

The foregoing resolution was duly put to a vote which resulted as follows:

Mayor Collopy	Aye
Trustee Herzog	Aye
Trustee Vicky Contino	Aye
Trustee Arbogast	Aye
<i>Vacancy</i>	

DATED: Millbrook, New York
March 10, 2021



SARAH J. WITT, Village Clerk
Village of Millbrook