



# Emerald Necklace CONSERVANCY

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January 31, 2024

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Boston Planning & Development Agency (the “BDPA”)  
One City Hall, 9<sup>th</sup> Floor  
Boston, MA 02201

Re: Comments on Project Notification Form dated December 18, 2023 (the “PNF”); Reconstruction and Private Use of White Stadium (the “Project”)

Dear BDPA Directors and Staff:

Pursuant to Sections 80A-2.4 and 80B-5.3(b) of the Boston Zoning Code (the “BZC”), the undersigned submits the following comments on the PNF (with initially-capitalized terms not defined herein having the meanings given them in the PNF).

The comments reflect a Project which would 1) appropriate, for private use and enrichment, property held in a public, charitable trust for the benefit of all inhabitants of the City of Boston; 2) violate Art. 97 of the state Constitution, the Public Lands Protection Act (the “PLPA”), the Massachusetts Environmental Protection Act (“MEPA”), state charities law and the trust created under the will of George Robert White (the “Trust”); 3) evade appropriate review by improperly and illegally splitting the Project into segments, with the proponent for the other segment, the City, having apparently not begun its zoning process yet; 4) require the adoption of zoning amendments which would expose 14 acres of Franklin Park to unlimited construction, without any zoning regulation of the number, size or siting of structures in the rezoned area; 5) negatively impact multiple interests protected by the BZC; and 6) utterly disregard the historic significance and design intent of Franklin Park.

**Private Appropriation of Community Property held in a Public Charitable Trust**

In 1883, the City acquired the land on which the Stadium sits for use “as a public park”. In 1947, the City transferred that land to the “City of Boston - George Robert White Fund” (the “Trust”) “in its capacity as a public charitable trustee”. The Trust was created for a “public charitable purpose”, namely as a “permanent charitable trust fund... and the net income only to be used for creating works of public utility and beauty, for the use and enjoyment of the inhabitants of the City of Boston. It is my intention that no part of said income, however, shall be used for a[n]...educational or any purpose which it shall be the duty of the City in the ordinary course of events to provide”. (See attached 1947 Conveyance Documents and Article Fourteenth of the Will of George

Robert White.) Under Massachusetts law, these transactions established a charitable trust of which the public – and notably the local community – are the beneficiaries and formed a contractual relationship among Mr. White, the City and the public.<sup>1</sup>

The Project, by devoting a substantial part of the reconstructed Stadium and adjoining land to the private uses listed above, would violate the terms of the Trust, disregard the contractual relationship created under Massachusetts law by the City’s acceptance of Trust property, ignore the City’s obligation to devote the Stadium to use by the local community and the public at large and convert a significant public resource to a private asset.

**Violations of Article 97 of the Massachusetts Constitution, the Public Lands Preservation Act (the “PLPA”) and MEPA**

White Stadium and its surrounding grounds are a critical part of Franklin Park and have been used for public park and public recreation purposes for nearly 150 years in the case of Franklin Park and for nearly 75 years in the case of White Stadium and its grounds. Indeed the Request for Proposals (the “RFP”) which resulted in the conditional selection of BUSP was stated to be made by the Public Facilities Department on behalf of the City of Boston and the Boston Public Schools, given the long school and public athletics use of the site.

It is beyond question that White Stadium and its surrounding grounds enjoy the protection of Amendment Article 97 of the Massachusetts Constitution

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<sup>1</sup> Several years after the construction of the Stadium, the Massachusetts legislature enacted special legislation, Chap. 291 of the Acts of 1950, later amended and restated by Chap. 1177 of the Acts of 1973, Section 44, which states that “the stadium and the estate on which it stands, shall be deemed to be a school building and yard and may be repaired, altered, improved and furnished in the same manner as a school building and yard out of funds appropriated for school purposes”. By allowing the maintenance and repair of the Stadium property to be paid for from school funds, this legislation implements the direction in the Trust that the expense of care and maintenance of Trust “works” of public utility and beauty be borne by the City. It does not override the terms of the Trust, which specifically prohibit the use of Trust proceeds for educational or any other purpose which the City is required to fulfill in the ordinary course. Article I, Section 10 of the United States Constitution and well-established Massachusetts case law proscribe the state legislature from impairing the contractual obligations which arise from the acceptance of a gift for public charitable purposes, and laws purporting to vary the use of gifted property from those specified by the donor afford no rights. *See Salem v. Attorney Gen.*, 344 Mass. 626, 631 (1962) (holding that property devised as “Public Grounds” was restricted to use for park purposes and could not be used as a site for a school building), and cases cited therein. Regardless of whose budget covers repairs, the Stadium and its grounds continue to be owned by the trustees of the Trust as a public charitable trust on behalf of the inhabitants of the City of Boston and cannot be devoted to private, for-profit professional sports team use without extensive public and legal processes, which have not occurred and which the City and BUSP ignores.

and the Public Lands Preservation Act. As held by the Supreme Judicial Court in 2017 in Smith v. City of Westfield, 478 Mass. 49, longstanding public use of public land for athletic and recreational purposes triggers Article 97 protection. The Westfield case involved 60 years of land use for two little league baseball fields and for a playground, and the City had sought and obtained funding for such improvements. Here, the Playstead was designed from the beginning for public recreation and, in the 1940s, White Stadium was built using George Robert White Fund monies. The City of Boston Parks Department, the Boston Public Schools and the Emerald Necklace Conservancy have expended maintenance funds for the upkeep and support of these facilities and their grounds. In Westfield, the SJC confirmed longstanding use is sufficient to impress Article 97 protections upon land, and the SJC specifically cited the Boston Common and the Public Garden, finding it unthinkable to change those resources to other public purposes (let alone to private, for-profit purposes, as proposed here) without the full panoply of Article 97 process and protection.

The RFP is explicit that compliance with Article 97 is the obligation of any selectee under the RFP process. The selectee is BUSP. No Article 97 process has been initiated by BUSP. No Massachusetts Environmental Policy Act (MEPA) process in preparation for an Article 97 process (or other likely MEPA triggers) has been initiated by BUSP. The required Article 97 alternatives analysis (meaning alternative locations in the metro area for BUSP to locate and use a professional soccer stadium) has not yet occurred. Public review and comment under both Article 97 and MEPA have not yet occurred. Given the location of White Stadium in a Designated Geographic Area which includes Environmental Justice Populations, BUSP would need to comply with applicable advance notification provisions and engage with affected communities as part of an Article 97 process and before it could even file an Environmental Notification Form (ENF) with MEPA. The failure of BUSP to engage in either the required MEPA or Article 97 processes, in this location within and adjacent to Environmental Justice Communities, is little short of breathtaking. The Project at this stage is noncompliant and simply not ripe for review.

Furthermore, the requisite analysis of the public uses being lost or curtailed here has not occurred, and the concrete proposals to provide equal or greater public benefit for the lost and curtailed public uses have not been provided by BUSP. Unless and until BUSP first complies with its obligations under the conditional designation to conduct a full Article 97 process and MEPA process, the BDPA should not consider or act on the Project. For BUSP to ask the BDPA to approve a private project on public park and public recreation land without any Article 97 process at all is to put the cart before the horse.

Of great concern is BUSP's proposed start of demolition in the spring of 2024, which suggests that BUSP may not intend to engage in an Article 97 process or a MEPA process at all. It is inconceivable that an Article 97 process or MEPA process could be conducted and completed in less than five months.

Much of the PNF focuses on converting the Stadium and its grounds to private use (team offices, team locker rooms, team storage, team catering and kitchens, and a retail store selling team merchandise), creating new private corporate suites and a private midfield corporate terrace level in the West Grandstand which would be off-limits to the public for unspecified (and perhaps substantial) amounts of time, and would exclude the un-ticketed public on Fridays and Saturdays of nearly 80% of weekends during the spring, summer and fall athletic seasons. In Q&As, BUSP has declined to commit to not interfering on game days with use of the adjacent public basketball courts, tennis courts, cross-country course, softball field, soccer field, cricket pitch and picnic grove, extensive concerts and festival spaces, zoo events and usage. It is clear that two Boston Public High School football teams, comprised of Boston Public schoolchildren primarily from black and brown communities, will be excluded from using White Stadium for regular season games and practices. One Q&A goes so far as to say: "The City will work closely with organizations that host events in the stadium, on the playstead, and on cross country courses to ensure they do not conflict with Boston Unity games."

Please take note: this says that Boston Unity soccer games and Boston Unity use will have priority over cultural festivals and all other events in the Stadium, the Playstead and on cross country courses.

The loss of public use and public access to these precious public resources, in the heart of Environmental Justice Communities, would be devastating to these communities. It is illegal and unconscionable. The BDPA should decline to consider the Project further prior to the completion of full and robust Article 97 and MEPA processes.

**Illegal Project Segmentation; No Zoning Compliance by the City as a Proponent.**

As bizarre as it may seem, the PNF addresses only part of the Project. It completely ignores the east half of the Stadium. The Proponent would construct a new West Grandstand with extensive, new, indoor facilities, additional structures in the Grove and related facilities, and the City would construct a new East Grandstand with extensive, new, indoor facilities and a new field. This segmentation violates MEPA and renders further review of the Project meaningless at this point.

The regulations implementing MEPA state, at 310 CMR 11.01(2) (c), the following:

**Segmentation**

**In determining *whether a Project is subject to MEPA jurisdiction or meets or exceeds any review thresholds, and during MEPA review, the Proponent, any Participating Agency, and the Secretary shall consider the entirety of the Project, including any likely future Expansion, and not separate phases or segments thereof. The Proponent may not phase or segment a Project to evade, defer or curtail MEPA review. The Proponent, any Participating Agency, and the Secretary shall consider all circumstances as to whether various work or activities constitute one Project including, but not limited to, whether the work or activities, taken together, comprise a common plan or independent undertakings, regardless of whether there is more than one Proponent; any time interval between the work or activities; and whether the environmental impacts caused by the work or activities are separable or cumulative.***

The application of Art. 97 of the Massachusetts Constitution and the PLPA alone, without regard to other possible Project elements triggering MEPA review, subject the Project to full scope MEPA review. Such review must include the City's segment of the Project, and that has not been presented.

Moreover, MEPA requirements aside, it should be beyond obvious that it simply makes no sense to review the Project under Article 80 of the BZC as presented in the PNF, without concurrent review of the City's segment of the Project. We should not need to point out that the components listed under Section 80B-3 of the BZC can only be analyzed for impacts and mitigation with a presentation of the entire Project. The PNF is rife with discussion and graphics which literally omit the City's segment. It is fatally deficient.

Finally, under Massachusetts law, municipalities generally are subject to their own zoning requirements, absent specific exemptions which courts may void if found to be overbroad. We are unaware of any enforceable provision in the BZC which would exempt the City from BZC requirements applicable to it as a proponent of its segment of the Project. If there is such an exemption, we ask the BDPA to identify it. Otherwise, this Project should not undergo further review unless and until the City has complied with the BZC, including the submission of a Project Notification Form which includes the entire Project.

**Project Zoning Amendments Would Allow Multiple, Commercial Use Structures in Franklin Park Without Limit as to Size and Location**

The Project requires amendment of the BZC and Zoning Map. These would include 1) in Article 33 of the BZC, the creation of a new “OS-S, Stadium” open space subdistrict; 2) the amendment of Zoning Map 8A (Greater Mattapan Neighborhood) to change the stadium site and associated land from OS-RC, Recreation, to OS-S, Stadium; and 3) the addition of language to Article 8, Use Code 27A which would allow structures for uses “customarily incidental to an open space recreational use.”

Section 2A of the BZC defines “open space” as:

**Open space in public ownership dedicated to or appropriated for active or passive recreational use or to the conservation of natural resources; including but not limited to the waterway areas, beaches, reservations, parks, and playgrounds within the boundaries of the City of Boston; or open space in private ownership for active or passive recreational use or for the conservation of natural resources.**

Accordingly, the nine (9) existing open space subdistricts recognized in Section 33 allow only a very few types of accessory structures, such as buildings or structures of not more than 600 square feet in an OS-P (Parkland) subdistrict (Section 33-9), and structures for shelter and refreshment of persons frequenting parks and other park purposes in parks under the control of Boston Parks and Recreation, the National Park Service or the MDC (Section 33-9).

Consistent with this very limited range of allowed structures, there are no dimensional regulations in the Greater Mattapan Neighborhood District (BZC Article 60) for structures in open space subdistricts within the Neighborhood District, and the proposed zoning amendments do not add any such regulations. This would have the potentially disastrous effect of subjecting this part of Franklin Park to the construction, in the course of this Project or in the future, of a greatly expanded array of structures, including stadiums, amphitheatres, offices, retail facilities, and restaurants serving alcohol and entertainment facilities, of any number, size and configuration, free of dimensional limitations. As drafted, the proposed amendments would appear to allow the replacement of White Stadium with a massive 100,000-seat stadium without constraint by zoning regulation. This cannot have been intended. Moreover, the addition, in connection with the Project, to Article 8, Use Code 27A, allowing structures in open space subdistricts for uses “customarily incidental to an open space recreational use”, would treat offices, stores, restaurants serving alcohol and

entertainment facilities as appropriate and allowed accessory uses in the OS-S Stadium subdistrict and would allow the construction of buildings for those purposes in any open space subdistrict. This likewise cannot have been intended.

The Project spurring this hasty re-zoning raises extensive, serious concerns for Franklin Park which require thoughtful consideration, including the dedication of public open space and recreational facilities to support various private uses, including professional sports operations; corporate sponsorship; retail sales; restaurants serving alcohol; and “entertainment” facilities. As the urban planning agency of the City of Boston, the BDPA should recognize that re-zoning of open space within Franklin Park requires additional planning and consideration to avoid unintended and potentially disastrous consequences.

### **Project Impacts of Large Project Review Components.**

Because the Project a) would violate Art. 97 of the Massachusetts Constitution, the PLPA, MEPA and Massachusetts common law of charitable trusts, and b) has been improperly segmented, detailed comments on the components of Large Project Review discussed in the PNF are unnecessary. However, the multiple, significant adverse impacts the Project would have on these components include the following.

#### **Transportation**

No on-site parking is proposed for spectators attending soccer games or other events in the 11,000 seat Stadium and adjacent Grove area. Sections 5.42 – 5.4.4 of the PNF purport to address the absence of parking by “encourag[ing]” spectators to use public transportation; providing bicycle valet services and adopting an operations plan which “intends to use satellite parking facilities, with shuttle service to and from the stadium.” Section 5.4.1 of the PNF says that many events with similar sized attendance are occurring in Franklin Park throughout the year, often without a traffic management plan, and that the Project therefore “does not represent an increase in traffic to the area, only an increase in the frequency of these events”.

We are confident that, if 20 soccer games with as many as 11,000 spectators are played on a site with no parking, in a Stadium which currently has far less capacity, the local community would have very different view of whether they are experiencing an increase in traffic and in congested battles for neighborhood parking spaces, along with an ordeal almost every weekend from

spring to fall from these impacts, closed ways and restricted parking on Fridays and Saturdays.

### Environmental Protection

Section 80B-3.2 of the BZC lists fifteen (15) elements to be studied for possible damage to the environment. If warranted, such impacts must be addressed by mitigation measures. The “Environmental Protection” sections of the PNF beginning at Section 6-1 nominally address only eight (8) of those elements, many in a cursory fashion. For example, Section 6.5 says, as to Geotechnical/Groundwater Impacts, that “a subsurface investigation program will be undertaken” at some unspecified future date. Section 6.6 says that the very important Construction Period impacts (which will undoubtedly be substantial and of great concern to the local community) will be the subject of a Construction Management Plan for approval prior to construction.

In short, the PNF kicks the can on these required and critical analyses, undoubtedly as casualties of the attempt to rush the Project through permitting. If the Project were ever to proceed, the BDPA should in its Scoping Determination require the detailed studies on these and the other environmental elements required by the BZC.

### Infrastructure

Section 80B-3.5 of the BZC says, as to Project infrastructure, that “[t]he Applicant's submission shall include an evaluation of the Proposed Project's impact on the capacity and adequacy of existing water, sewerage, energy, and electrical utility systems, and the need reasonably attributable to the Proposed Project for additional systems facilities”.

The PNF lacks meaningful and substantive analysis of the impacts on the capacity or adequacy of these systems and of the need for additional systems facilities. Instead, Article 7 of the PNF presents a cursory description of existing conditions, bare assurances that the Project will comply with legal requirements, and a series of little more than repeated aspirations that Project impacts will be less than drastic.

To take only one example, it is well-established that the Stadium property suffers from inadequate drainage. Section 7.2.1 acknowledges that ponding occurs in several areas. Section 7.2.2 offers the following for mitigation: “The Project is expected to provide stormwater storage to mitigation [sic] the change in impervious cover. Existing site constraints, particularly the soil conditions,



may impact the stormwater management and treatment system designs. However, the Project is expected to reduce peak runoff rates and volumes”.

This statement expresses little more than a hope that the Project will make a bad situation marginally better. As proposed mitigation, it is completely inadequate. The remainder of the infrastructure presentation in the PNF suffers from the same inadequacies; the words “expected”, “believed” and “attempt” repeat strikingly. In short, the PNF does not meet the requirements of Section 80B-3.5 of the BZC.

### Urban Design

Section 80B-3.3 of the BZC requires require the Proponent “to submit such plans, drawings, and specifications as are necessary for the [BDPA] to determine that the Proposed Project:

- (a) is architecturally compatible with surrounding structures;
- (b) exhibits an architectural concept that enhances the urban design features of the subdistrict in which it is located;
- (c) augments the quality of the pedestrian environment; and
- (d) is consistent with any established design guidelines that exist for the area in which the Proposed Project is located, as set forth in the underlying zoning.”

The PNF fails as such a submission. As discussed under “Historic Resources” below, it presents a development which is incompatible with surrounding architectural elements and inconsistent with the City’s design guidelines for Franklin Park.

Moreover, due to the segmentation of the Project discussed above, the discussion of urban design in Article 3 of the PNF is deficient. Section 3.2 of the PNF characterizes the Project design as a “blend” of features into a “seamless composition”, described also as “a cohesive, intentionally understated, elegant language”. The design proposal can indeed be characterized as “understated”. However, “fractured” would be a more apt term. The Project literally presents only a little more than half of the new Stadium. The Massing Diagram (Figure 3.2) shows only half of the Stadium mass. It is inconceivable that one could determine that one-half of a new structure, plus several new buildings, are architecturally compatible with surrounding features when the other half of the new structure is omitted.

The PNF fails entirely to fulfill the requirements of Section 80B-3.3.

### Historic Resources

Section 80B-3.4 of the BZC requires the Proponent “to submit an analysis that sets forth measures intended to mitigate, limit, or minimize, to the extent economically feasible, any potential adverse effect that the Proposed Project may have on the historical, architectural, archaeological, or cultural resources of any district, site, building, structure, or object listed in the State Register of Historic Places.”

The Project site, a local Landmark, sits entirely within Franklin Park, which is listed on the National Register of Historic Places. Franklin Park was designed by Frederick Law Olmsted, considered by many to be America’s pre-eminent landscape architect, as the centerpiece of the Boston Park system. To address impacts from the Project to these unparalleled historic resources and planned mitigation, the PNF devotes two short paragraphs. The mitigation centers around statements that the proposed new West Grandstand building “will respect “the existing mid-century architecture”; the weather cover will “draw upon the surrounding landscape”; other proposed improvements will be “sensitively augmented to provide new programming for visitors” and will “respect the relationship between the Grove and the historic Overlook/Playstead landscapes”.

As mitigation, the PNF offers nothing because the extensive damage the Project would cause to these historic resources cannot be mitigated. The 1980 Landmarks Commission Study Report for Franklin Park (the “Study Report”) adopts (in Section 10.0A.1) the following Approach governing the Commission’s Specific Standards and Criteria applicable to the Project:

**The intent of the designation is to maintain and to restore to the extent possible, the character of Franklin Park as established by Frederick Law Olmsted in his designs for the park. Thus, the major portion of the property, which was established as a "Country Park" for city residents, should retain its naturalistic, even rural qualities. The development of additional hard, urban recreational facilities is to be avoided and discontinuance of existing non-natural areas and restoration is encouraged. [emphasis added.] Maintenance and replacement of existing trees, walls, bridges, gateways, terraces and other existing elements should be done in. a, manner consistent with the park's character. New elements, if any, should be designed to be as unobtrusive as possible.**

Olmsted articulated his specific vision for the area of the Playstead, known as the “Overlook”, which served as the original area to support park users . It was “built of boulders obtained in clearing the Playstead, which are to be mainly overgrown with vegetation befitting the form and material of the structure, adapted to harmonize it with the natural scenery and make it unobtrusive”.

The Project would completely disregard Olmsted’s design intent and ignore the City’s own standards. It includes the following re-construction and expansion of existing structures and construction of new structures, access ways and other paved surfaces:

- the demolition of the existing West Grandstand, except the exterior clamshell wall, and the construction of a new 29,637 square foot West Grandstand extending well beyond the existing foot print on both ends with a massive roof canopy extending as much as 25 feet above the existing structure in some areas, and including, for private use: multiple professional athlete locker rooms; team office space; a professional athlete interview room; a press support media room; fourteen (14) corporate suites; a large “Tunnel Club Lounge”; a main kitchen; a catering kitchen; at least four (4) “Team Facilities” rooms; storage space; an additional administrative staff room; a press box; various utility and mechanical equipment rooms;
- while the Proposal omits detail as to the East Grandstand because of the Project segmentation described above, the demolition of the existing East Grandstand and the construction of a new Grandstand with two 15,000 square foot athletic facilities;
- the development of a 62,500 area in the “Grove” area south of the Stadium, including the construction of two buildings housing a beer garden, a bar, retail stores and storage space and supporting a large, lit scoreboard;
- the construction of additional mobile seating at the north and south ends of the Stadium;
- the construction lighting, banner pylons, fencing and an entry plaza; and
- the construction of new paved pathways with a surface area which appears to be many times that of the existing pathways.

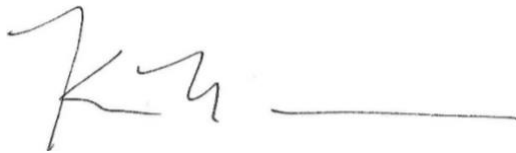
Ignoring the City’s own conclusion in the Study Report - that the discontinuation of non-natural features should be encouraged - the Project would instead redevelop this historic site with new buildings with roughly 60,000 square feet of floor area, even not counting the floor area of the two new

buildings to be constructed between the Stadium and the historic Overlook. It would permanently and irreparably damage the precious historic resources in which it would sit.

To refer to the Project as the “renovation” of the existing Stadium seriously understates and distorts its scope and impacts. The Project is a substantial, mixed-use development, much of which would exclusively benefit a professional sports team and its owners, investors and other stakeholders. The extent of this development within Franklin Park, designed by, in the City’s own words, America’s “preeminent landscape architect” as the “centerpiece” of the Boston Park System, would, even if legally permissible - which it is not - warrant a methodical and thorough design review process with appropriate community engagement which this has not offered.

We urge the City and others to rethink this proposal for through Franklin Park, the communities around all of its current and future stewards.

Sincerely,

A handwritten signature in black ink, appearing to read 'KM', followed by a horizontal line.

Karen Mauney-Brodek, President

Cc:

The Honorable Maura Healey, Governor of The Commonwealth of Massachusetts

The Honorable Kate Cook, Chief of Staff to the Governor of The Commonwealth of Massachusetts

The Honorable Andrea Campbell, Attorney General of The Commonwealth of Massachusetts

The Honorable M. Patrick Moore, First Assistant Attorney General of The Commonwealth of Massachusetts

The Honorable Jon Green, Division Chief, Non-Profit Organizations and Charities Division, Office of the Attorney General of The Commonwealth of Massachusetts

The Honorable Rebecca Tepper, Secretary, Executive Office of Energy and Environmental Affairs

The Honorable Tori Kim, Assistant Secretary and MEPA Director, Executive Office of Energy and Environmental Affairs

The Honorable Betsy Harper, Chief of the Environmental Protection Division, Executive Office of Energy and Environmental Affairs

The Honorable Michelle Wu, Mayor of the City of Boston

The Honorable Tania Fernandes-Andersen, Boston City Councilor

The Honorable Liz Miranda, State Senator

The Honorable Christopher J. Worrell, State Representative

The Honorable Michael Firestone, Chief of Policy and Strategic Planning, City of Boston

Sammy S. Nabulsi, Esq.

Christopher C. Tsouros, Esq.

Ms. Jennifer Epstein, Boston Unity Soccer Partners, LLC

Ms. Elizabeth Grob, VHB

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WHEREAS by an order passed In City Council of the City of Boston October 27, 1947 and passed again November 10, 1947 and approved by the Temporary Mayor of the City of Boston November 12, 1947 the Temporary Mayor of the City of Boston was authorized in the name and behalf of the City of Boston to transfer to the City of Boston - George Robert White Fund by an instrument in writing satisfactory in form to the Law Department of the City of Boston a parcel of land within Franklin Park containing approximately 609,840 square feet or 14 acres for the purpose of the establishment of a stadium on said land by the George Robert White Fund and upon the consideration of the payment to the City of Boston by said Fund of the sum of \$20,000, the fair cash value of said land. (A copy of said order is hereto attached and made a part of this instrument.)

NOW, THEREFORE, the City of Boston, a municipal corporation in the Commonwealth of Massachusetts, in consideration of the sum of twenty thousand dollars (\$20,000.) to it paid, the receipt whereof is hereby acknowledged, does hereby transfer to the City of Boston - George Robert White Fund, a municipal corporation in the Commonwealth of Massachusetts, in its capacity as a public charitable trustee and for the purpose of the establishment of a stadium on said land, a certain parcel of land within Franklin Park containing approximately 609,840 square feet or 14 acres as shown on a plan attached hereto and made a part of this instrument and marked "Plan Showing Land to be Transferred by City of Boston - Park Department to City of Boston - George Robert White Fund, City of Boston, Franklin Park, West Roxbury, October 16, 1947, Thomas F. McGovern, Chief Engineer, Street Laying-Out Department".

IN WITNESS WHEREOF the City of Boston has caused its corporate seal to be hereto affixed and these presents to be signed in its

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name and behalf by John B. Hynes, Temporary Mayor of the City of Boston this *fourteenth* day of *November* 1947.

City of Boston  
By *[Signature]*  
Temporary Mayor.

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

Boston, Mass.

*November 14,* 1947.

Then personally appeared the above-named John B. Hynes, Temporary Mayor of the City of Boston, and acknowledged the foregoing instrument to be the free act and deed of the City of Boston.

Before me,

*[Signature]*  
Notary Public  
*[Signature]*  
Justice of the Peace  
My commission expires: *Dec. 24, 1947*

Approved as to form:

*[Signature]*  
Corporation Counsel,  
City of Boston.

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CITY OF BOSTON  
IN CITY COUNCIL

RECEIVED

NOV 13 1947

REFER TO To

WHEREAS the City of Boston owns in fee Franklin Park, a public park in the West Roxbury District of the City of Boston, containing an area of approximately 23,000,000 square feet or 528 acres; and

WHEREAS the City of Boston - George Robert White Fund has selected within Franklin Park an area of approximately 14 acres as a site for the establishment of a stadium by the George Robert White Fund and has requested that the said parcel of land be transferred by the City of Boston to the City of Boston - George Robert White Fund, and has offered to the City of Boston the sum of \$20,000 as the fair cash value of said land; and

WHEREAS the Board of Park Commissioners of the City of Boston recommends that the request and offer of the City of Boston - George Robert White Fund be accepted and that the selected parcel of land be transferred by the City of Boston to the City of Boston - George Robert White Fund for the sum of \$20,000., the fair cash value of said land; now, therefore, it is hereby

ORDERED: That His Honor the Temporary Mayor of the City of Boston be and he hereby is authorized in the name and behalf of the City of Boston to transfer to the City of Boston - George Robert White Fund by an instrument in writing satisfactory in form to the Law Department of the City of Boston a parcel of land within Franklin Park containing approximately 609,840 square feet or 14 acres for the purpose of the establishment of a stadium on said land by the George Robert White Fund and upon the consideration of the payment to the City of Boston by said Fund of the sum of \$20,000., the fair cash value of said land. The parcel of land to be transferred is shown on a plan marked "Plan Showing Land To be Transferred by City of Boston - Park Department to City of Boston - George Robert White Fund" "City of Boston, Franklin Park, West Roxbury, October 16, 1947, Thomas F. McGovern, Chief Engineer, Street Laying-Out Department".

In City Council October 27, 1947. Read once and passed -  
yeas nineteen, nays none.

In City Council November 10, 1947. Read a second time and  
again passed - yeas fifteen, nays none.

Approved by the Temporary Mayor November 12, 1947.

Attest:

*M. J. Malloy*

Nov. 24, 1947. At 2 o'clock & 51 mins. P.M. Rec'd. Ent'd. & Exam'd. *Dept. City Clerk*



ARTICLE FOURTEENTH

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WILL OF  
GEORGE ROBERT WHITE



## Article Fourteenth of the Will of George Robert White

ARTICLE FOURTEENTH: Whereas my sister Mary E. Sullivan has died, and I have otherwise provided for my sister Harriet J. Bradbury, I do now carry out by immediate gift my public charitable purpose which in previous wills I [7] had provided for in remainder, and I do now give all the rest and residue of my property of every nature to the City of Boston, the same to be held as a permanent charitable trust fund to be known as the George Robert White Fund, and the net income only to be used for creating works of public utility and beauty, for the use and enjoyment of the inhabitants of the City of Boston. It is my intention that no part of said income, however, shall be used for a religious, political, educational or any purpose which it shall be the duty of the City in the ordinary course of events to provide.

The control and management of said Fund and the disbursement of the income shall be in the hands of a board of five trustees to consist of the Mayor, who shall be its chairman, the President of the City Council, the City Auditor, the President of the Chamber of Commerce and the President of the Bar Association of the City of Boston. If by the reason of the abolition of any one or more of these offices or the declination or resignation of any one or more of the persons holding them for the time being a vacancy or vacancies shall occur, I direct that such vacancies shall be filled by the remaining members of the board, by the election of the persons whose respective positions and duties shall in the opinion of the board most nearly correspond therewith. As this is a public charitable gift to the City of Boston, it is my



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intention that the [8] City shall at all times be officially represented by a majority of the board of trustees charged with its management.

The business of the Fund shall be transacted through the regular departments of the City, viz. the Treasurer, Auditor, Corporation Counsel, etc., and a suitable office or offices for the use of the trustees shall be provided for them by the City in the City Hall or elsewhere, in which shall be kept all books and records of every nature relating to the management of the Fund, properly indexed and readily accessible during business hours for the reasonable inspection of citizens, so that all who so desire may have full knowledge of the conduct of the business of the Fund. I direct that said income shall not be anticipated or pledged beyond the amount actually in hand, but it may be accumulated for any purpose within the scope of the gift, and successive accumulations may be applied to the same object. Any work or works established from the Fund may be improved, extended, enlarged or added to from time to time, but the current expense of their care and maintenance shall be borne by the City. I also direct that no part of said income shall be mingled with other funds or applied in joint undertakings; but that each work established under this gift shall be separate and distinct, and shall always bear in a conspicuous place a suitable inscription identifying [9] it as erected or established from said George Robert White Fund. If for any reason the principal of said Fund shall at any time become impaired, the income shall be allowed to accumulate until such impairment shall have been made good.

Inasmuch as I believe an enlightened public opinion to be the most effective safeguard for the preservation and maintenance of



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such a charitable fund and the best guide to its effective use, I direct that at least once a year the trustees shall cause to be published in most if not all of the daily newspapers of general circulation in Boston a full and comprehensive report, duly audited, and signed and sworn to by at least three of their number, setting forth the receipts, disbursements and investments of the Fund and a copy of this fourteenth article of my will establishing it.

In order to diminish the chance of hasty or unconsidered action in the expenditure of income, I believe that no substantial expenditure should be made for any purpose until it shall have been under consideration by the trustees for at least three months.

As it is probable that said Fund will consist in greater part of real estate centrally situated in the City of Boston which is reasonably sure to increase in value, I urgently recommend that such real estate be not sold for a period of at least one hundred (100) years, that leases of the same [10] shall be subject to revaluations as a basis of rentals every ten (10) years and where necessary shall provide for rebuilding by the lessees, that the real estate shall not be mortgaged, and the buildings thereon shall be kept fully insured.

If any clause or provision of the foregoing charitable gift should be found to be invalid in law, it shall not invalidate the gift as a whole but shall so far as possible be construed as an expression of my general intent.

While I think that Boston has now few, if any, superiors in beauty and in the many privileges it affords to its citizens, yet I believe it has greater possibilities for the future, and there are several public blessings among those afforded by other cities,—

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such as a zoological garden and handsome buildings therefor, an aquarium, a forum of substantial proportions for public gatherings, etc.—which we do not possess. It is with such things as these in mind that I have established the foregoing trust fund.

I can conceive that pressure might be brought to bear to use the income of this Fund for small and comparatively unimportant needs, which might be equally deserving and technically within the general scope of the Trust as heretofore expressed. A use of it for such purposes to any substantial extent would be contrary to my intention, which is that its income, accumulated if need be for a time long enough to make it sufficient, should [11] be used only for important civic improvements.

I suggest that printed copies, in convenient pamphlet form of this the fourteenth article of my will be kept at the office of the trustees of the Fund for free distribution to citizens of Boston.

I request that the trustees named in this article shall annually designate one of their number who shall visit and inspect my lot in Forest Hills Cemetery in the months of April and September of each year, and report to the board any neglect or failure to comply with the provisions of the contract of perpetual care, as well as Article First of this my will, in regard to the care of said lot, and it shall be the duty of said trustees to see that such neglect or lack of care be remedied without delay.



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