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CITY OF CAMBRIDGE

Office of the City Solicitor
795 Massachusetts Avenue
Cambridge, Massachusetts 02139

November 7, 2022

Yi-An Huang
City Manager
Cambridge City Hall
795 Massachusetts Avenue
Cambridge, MA 02139

Re: Response to Awaiting Report No. 22-58 Re: Report on directing the appropriate City staff to establish a fund designed to assist those City employees in same-sex marriages with paying for surrogacy services in instances where the City's health plan insurance providers fail to provide the same coverage afforded to the City's female employees and those in heterosexual marriages.

Dear Mr. Huang:

We have prepared this response to Awaiting Report No. 22-58 (the "Council Order"). The Council Order requests the City Manager to: "direct the appropriate City staff to establish a fund designed to assist those City employees in same-sex marriages with paying for surrogacy services in instances where the City's health insurance providers fail to provide the same coverage afforded to the City's female employees and those in heterosexual marriages" and "report back to the City Council on this matter within 30 days." This response addresses why it is not possible for the City's health insurance to cover surrogacy services for City employees at this time.

We have conferred with Personnel Director Sheila Keady Rawson regarding the request posed in the Council Order, and reviewed information from the City's health insurance providers. None of the City's health insurance providers offer coverage for surrogacy services at present, regardless of the sex and marital status of the member.

Further, even if the City's health insurance providers were to offer coverage for surrogacy services, the City is proscribed from providing health insurance coverage to individuals other than employees and their dependents, as defined by G.L. c. 32B, §§2 and 15(b).

The Supreme Judicial Court¹ has held that municipalities may not expand the definition of dependents provided in G.L. c. 32B, §2. Surrogacy services are health care services provided to a third-party, and not to an employee or their dependent.

Accordingly, the City does not and cannot offer health insurance coverage for surrogacy services to any City employees at this time, regardless of sex and marital status. If the City were to offer this benefit in the future, to the extent permitted by law, it would be provided for all employees regardless of sex or marital status.

Very truly yours,



Nancy E. Glowa
City Solicitor

¹ *Connors v. City of Boston*, 430 Mass. 31 (1999).