

RESOLUTION NO. 2022-37

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, APPROVING THE CALPERS INDUSTRIAL DISABILITY RETIREMENT FOR FORMER POLICE SERGEANT FRED CHEATHAM

WHEREAS, the City of Escondido (the “City”) is a contracting agency of the California Public Employees’ Retirement System (“CalPERS”); and

WHEREAS, the California Public Employees’ Retirement Law (Government Code Section § 20000 et seq.) (“California law”) requires that the City determine whether an employee classified as a local safety member is disabled for purpose of the California law and whether such disability is “industrial” within the meaning of such law; and

WHEREAS, Fred Cheatham (“Employee”) filed an application with CalPERS on November 15, 2021, for a service pending industrial disability retirement due to an orthopedic injury of the cervical and lumbar; and

WHEREAS, the Employee, was employed by the City in the position of Police Sergeant; and

WHEREAS, the City Council of the City of Escondido has reviewed the medical and other evidence relevant to this industrial disability.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Escondido, California:

1. That the above recitations are true.
2. That the City Council does hereby find and determine that Employee is incapacitated within the meaning of the California Public Employees’ Retirement Law for performance of his duties in the position of Police Sergeant.

3. That the City Council certifies Resolution No. 2022-37 in accordance with Government Code Section § 21156, that this determination was made on the basis of competent medical opinion, and was not used as a substitute for the disciplinary process.

4. That the Employee had filed a Workers' Compensation claim for his disabling condition. The City accepted the Employee's Workers' Compensation claim.

5. That neither Employee nor the City of Escondido has applied to the Worker's Compensation Appeals Board for a determination pursuant to Government Code Section § 21166 whether such disability is industrial.

6. That the Employee's last day on paid status was December 30, 2021; the Employee was separated on December 31, 2021, with an effective date of retirement December 31, 2021.

7. That there is not a possibility of third-party liability.

8. That the City will not make any monthly advanced disability pension payments.

9. That the primary disabling condition is an orthopedic injury to his lumbar and cervical neck, and arose out of and in the course of employment.

10. That there is competent medical opinion certifying the disabling condition to be permanent.

11. That based on information and belief, and on the information provided by City staff, the City Council certifies under penalty of perjury that all statements in this Resolution are true and correct.