

RESOLUTION NO. 2021-_____

**A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF MERCED, CALIFORNIA,
DELEGATING AUTHORITY TO THE CITY
MANAGER TO MAKE INDUSTRIAL DISABILITY
DETERMINATIONS PURSUANT TO THE PUBLIC
EMPLOYEES RETIREMENT SYSTEM
INCLUDING, BUT NOT LIMITED TO,
GOVERNMENT CODE SECTIONS 21152(c) AND
21173**

WHEREAS, the City of Merced (hereinafter referred to as “Agency”) is a contracting agency of the Public Employees’ Retirement System (“PERL”); and

WHEREAS, the PERL requires that a contracting local government agency determine (a) whether an employee of such agency in which s/he is classified as a “local safety member” is disabled for purposes of the PERL and (b) whether such disability is “industrial” within the meaning of PERL; and

WHEREAS, pursuant to Government Code Section 21151 “local miscellaneous members” are members subject to mandatory retirement for incapacity resulting from industrial disability if the contracting agency employing those members elects to be subject to Section 21151 by amending its contract; and,

WHEREAS, the City Council of the City of Merced may delegate any authority or duty conferred or imposed to a subordinate officer pursuant to Government Code Sections 21152(c) and 21173.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MERCED DOES HEREBY RESOLVE, DETERMINE, FIND, AND ORDER AS FOLLOWS:

SECTION 1. The City Council delegates to the City Manager the authority and duty to file disability applications on behalf of all eligible employees pursuant to 21152(c) and/or 21173 and to initiate requests for reinstatement of such employees who have previously been retired for disability.

SECTION 2. The City Council delegates to the City Manager the authority and duty to make any and all determinations on behalf of the Agency under the

PERL including, but not limited to, determinations under Section 21156 of the Government Code, as now existing or hereafter amended, of the existence of a disability and whether such disability is industrial, and to certify such determination and all other necessary information to the California Public Employees' Retirement System.

In determining whether a member is eligible to retire for disability, the City Manager shall make a determination on the basis of competent medical opinion and shall not use disability retirement as a substitute for the disciplinary process.

SECTION 3. The City Council delegates to the City Manager the authority and duty to participate in any administrative appeal that is conducted by an administrative law judge pursuant to Section 21156 of the Government Code.

SECTION 4. A certified copy of this Resolution must be placed on file with the California Public Employees Retirement System or must accompany all such resolutions or letters of designation signed by the City Manager and be included as part of the submission to the California Public Employees Retirement System.

SECTION 5. Resolution No. 93-37 is hereby repealed and replaced with this Resolution.

PASSED AND ADOPTED by the City Council of the City of Merced at a regular meeting held on the ____ day of _____ 2021, by the following vote:

AYES: Council Members:

NOES: Council Members:

ABSENT: Council Members:

ABSTAIN: Council Members:

APPROVED:

Mayor

ATTEST:
STEPHANIE R. DIETZ, CITY CLERK

BY: _____
Assistant/Deputy City Clerk

(SEAL)

APPROVED AS TO FORM:

Phueda Q. Noh 3/4/21
City Attorney Date