

**RESOLUTION NO. 7518**

**CITY OF SOUTH GATE  
LOS ANGELES COUNTY, CALIFORNIA**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOUTH GATE DETERMINING THAT MICHAEL R. LEVESQUE IS INCAPACITATED WITHIN THE MEANING OF THE PUBLIC EMPLOYEES' RETIREMENT LAW AND THAT SUCH DISABILITY IS A RESULT OF INJURY ARISING OUT OF AND IN THE COURSE OF HIS EMPLOYMENT**

**WHEREAS**, the City of South Gate (hereinafter referred to as "Agency") is a contracting Agency of the Public Employees' Retirement System; and

**WHEREAS**, the Public Employees' Retirement Law requires that a contracting agency determine whether an employee of such agency in which the employee is classified as a local safety member is disabled for purposes of the Public Employees' Retirement Law and whether such disability is "industrial" within the meaning of such law; and

**WHEREAS**, an application for industrial disability retirement of **MICHAEL R. LEVESQUE**, employed by the agency in the position of Police Officer, has been filed with the Public Employees' Retirement System; and

**WHEREAS**, the Agency has reviewed the medical and other evidence relevant to such alleged disability;

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SOUTH GATE DOES HEREBY RESOLVE AS FOLLOWS:**

**SECTION 1.** The City Council hereby finds and determines that **MICHAEL R. LEVESQUE** is incapacitated within the meaning of the Public Employees' Retirement Law for performance of his duties in the position of Police Officer with our Agency and with other California public agencies in CalPERS.

**SECTION 2.** The City Council finds and determines that such disability is a result of injury arising out of and in course of employment; and further determines that such disability did occur during the performance of those portions of the employee's duties which are particularly hazardous and dangerous.

**SECTION 3.** **MICHAEL R. LEVESQUE** nor the City of South Gate has applied to the Workers' Compensation Appeals Board for a determination pursuant to Section 21166 whether such disability is industrial.

**SECTION 4.** **MICHAEL R. LEVESQUE** separated from his employment in the position of Police Officer after the expiration of his leave rights under Section 21164 Government Code effective December 24, 2010 and that no dispute as to the expiration of such leave rights is pending. His last day of pay status is December 23, 2010.

**SECTION 5.** There is not a possibility of third party liability present.

**SECTION 6.** Advance Disability Pension Payments will not be made.

**SECTION 7.** Per the opinion of Dr. Daniel Capen (Orthopedist) as contained in his report of March 16, 2012, Mr. **MICHAEL R. LEVESQUE'S** primary disabling condition of cervical spine discopathy, right shoulder impingement syndrome and acromioclavicular joint degeneration, left elbow epicondylitis and cubital tunnel syndrome, and lumbar spine discopathy arising out of his employment and as a result he is substantially incapacitated from the performance of his usual duties as a Police Officer since December 23, 2010. The member is competent to act on his behalf in legally binding retirement matters.

**SECTION 8.** The member's disabling condition did occur during the performance of those portions of the member's duties which are particularly hazardous and dangerous.

**SECTION 9.** The City Clerk shall certify to the passage and adoption of this Resolution which shall be effective upon its adoption.

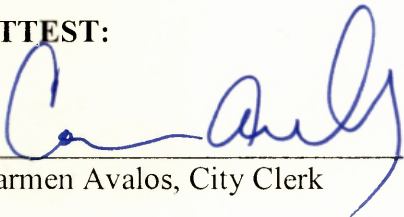
**PASSED, APPROVED and ADOPTED** this 11<sup>th</sup> day of September 2012.

**CITY OF SOUTH GATE:**



W.H. (Bill) DeWitt, Mayor

**ATTEST:**



Carmen Avalos, City Clerk

(SEAL)

**APPROVED AS TO FORM:**



Raul F. Salinas, City Attorney

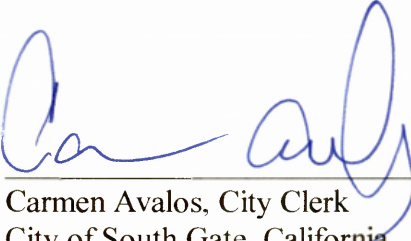
**RESOLUTION CERTIFICATION PAGE**

**STATE OF CALIFORNIA**            )  
**COUNTY OF LOS ANGELES**    )       **SS**  
**CITY OF SOUTH GATE**         )

I, Carmen Avalos, City Clerk of the City of South Gate, California, hereby certify that the whole number of Members of the City Council of said City is five; that Resolution No. 7518 was adopted by the City Council at their Regular Meeting held on September 11, 2012, by the following vote:

Ayes:            Council Members:    De Witt, Hurtado, Gonzalez, Morales and Davila  
Noes:            Council Members:    None  
Absent:          Council Members:    None  
Abstain:         Council Members:    None

Witness my hand and the seal of said City on September 20, 2012.

  
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Carmen Avalos, City Clerk  
City of South Gate, California