

RESOLUTION NO. 2022-138

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
ESCONDIDO, CALIFORNIA, APPROVING THE CALPERS
INDUSTRIAL DISABILITY RETIREMENT FOR FIRE
CAPTAIN JUSTIN P. MILLER

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, Justin P. Miller (“Employee”) filed an application with CalPERS on June 27, 2022, for an Industrial Disability Retirement due to an orthopedic injury of the right elbow; and

WHEREAS, the Employee is employed by the City in the position of Fire Captain; 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 as follows:

1. That the above recitations are true.
2. That the City Council does hereby find and determine that the Employee is incapacitated within the meaning of the California Public Employees’ Retirement Law for performance of his duties in the position of Fire Captain.
3. That the City Council certifies Resolution No. 2022-138 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 or 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 retirement date will be effective September 29, 2022, and his last day on paid status is September 28, 2022.

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

8. That the City will make monthly Advanced Disability Pension Payments of \$5,295.35, beginning October 1, 2022, until CalPERS begins making retirement payments. The City will also make a one-time advance disability payment of \$353.02, for the remaining twenty days of September 2022. CalPERS will send the reimbursement check to: City of Escondido Workers' Compensation Department 201 N. Broadway Escondido, CA 92025.

9. That the primary disabling condition is an orthopedic injury to his right elbow, 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.