

REQUEST FOR COUNCIL ACTION



CITY COUNCIL MEETING DATE:

NOVEMBER 17, 2020

TITLE:

**ADOPT A RESOLUTION AMENDING THE
CLASSIFICATION AND COMPENSATION
PLAN FOR EXECUTIVE MANAGEMENT**

CLERK OF COUNCIL USE ONLY:

APPROVED

- ☐ As Recommended
- ☐ As Amended
- ☐ Ordinance on 1st Reading
- ☐ Ordinance on 2nd Reading
- ☐ Implementing Resolution
- ☐ Set Public Hearing For _____

CONTINUED TO _____

FILE NUMBER _____

/s/ Kristine Ridge

CITY MANAGER

RECOMMENDED ACTION

Adopt a resolution amending the City's Basic Classification and Compensation Plan for classifications of employment designated as unrepresented Executive Management.

DISCUSSION

The unrepresented Executive Management group includes the head of each department of the City and, with the exception of the Police Chief, such positions are exempted from the City's civil service system as set forth in the Santa Ana City Charter, Article X, Section 1002 and serve at will. The classification and compensation requirements for these positions have been established by various resolutions over the years. In 2015, the City Council adopted Resolution 2015-026, which replaced Resolution 91-066 that established the job classification, compensation and benefit plan for unrepresented Executive Management.

Resolution 2015-026 has been amended by the City Council several times since 2015 to update and add specific provisions. While these updated provisions continue to be applicable and valid, the Resolution still includes original language that is not current or requires clarification to ensure compliance with related regulations and laws. For example, the description of Temporary Upgrades is no longer aligned with the requirements of the California Public Employees Retirement System (CalPERS) nor the Public Employees' Pension Reform Act (PEPRA). In addition, the Resolution (Exhibit 1, Attachment A) includes references to longevity vacation and a medical subsidy plan which no longer exist, as well as the omission of an established City holiday, Martin Luther King, Jr. Day. Further, the past resolutions have created and supported a step-based compensation plan for the executive level positions, providing for step increases associated with time and an opportunity to earn a pensionable performance bonus at each step. Typically, high-level executives are compensated within a market based salary range with movement predicated upon performance. A performance based salary range assists with attraction, retention and motivation of competent executives willing to excel.

Specifically, the proposed resolution eliminates obsolete language, clarifies language to reflect current practices and ensures compliance with related regulations. In addition, the resolution amends the plan to provide details on the other employment benefits including the types of additional monetary compensation available to Executive Management. Most substantially, the proposed amendment converts the current step-based compensation plan to a performance salary-based range and eliminates opportunities for pensionable lump sum bonuses. The resolution is intended to accurately and comprehensively describe all provisions applicable to Executive Management and enable the City to administer provisions in an appropriate and legally compliant manner.

FISCAL IMPACT

There is no quantifiable or significant fiscal impact associated with this action.

Submitted By: Steven V. Pham, Executive Director - Human Resources Department

Exhibit: 1. Executive Management Resolution

EXHIBIT 1

RESOLUTION NO. 2020-XXX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA ANA TO AMEND RESOLUTION NO. 2015-026 AMENDING, REESTABLISHING AND DELINEATING THE BASIC CLASSIFICATION AND COMPENSATION PLAN FOR CLASSIFICATIONS OF EMPLOYMENT DESIGNATED AS UNREPRESENTED EXECUTIVE MANAGEMENT (EM).

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SANTA ANA AS FOLLOWS:

Section 1: The City Council hereby finds, determines and declares as follows:

- A. Section 1004, Article X of the City Charter of the City of Santa Ana requires the City Manager to prepare, install and maintain a position classification and pay plan subject to civil service rules and regulations and the approval of the City Council.
- B. On June 16, 2015, the City Council adopted Resolution No. 2015-026 amending and re-establishing the Basic Classification and Compensation Plan for all Full-Time and Part-Time Classifications of Officers and Employees of the City of Santa Ana.
- C. On December 15, 2015, the City Council adopted Resolution 2015-069, which amended Resolution No. 2015-026, Exhibit A, the City's Basic Classification and Compensation Plan for certain classifications of employment designated as unrepresented Executive Management (EM) to provide a salary increase consistent with that provided to other City bargaining units.
- D. On January 19, 2016, the City Council adopted Resolution 2016-005, Exhibit A, Section 1, Paragraph B, which amended Resolution No. 2015-069, amending the salary for the unrepresented EM classification of Deputy City Manager.
- E. On March 1, 2016, the City Council adopted Resolution No. 2016-015 which amended Resolution No. 2015-026, as to various classifications and compensation throughout the City based upon the City's mid-year review budget.
- F. On June 7, 2016, the City Council adopted Resolution No. 2016-035, amending the City's Basic Classification and Compensation Plan Resolution No. 2015-026, Exhibit A, Section 4 "Health and Welfare Benefits"

to clarify the language pertaining to “cash-in-lieu” benefits for EM classifications.

- G. On September 19, 2017, the City Council adopted Resolution No. 2017-061, amending the City’s Basic Classification and Compensation Plan Resolution No. 2015-026, Exhibit A, to adjust the salary for certain unrepresented EM classifications.
- H. On March 6, 2018, the City Council adopted Resolution No. 2018-020, amending the City’s Basic Classification and Compensation Plan Resolution No. 2015-026, Exhibit A, providing and equity adjustment to the unrepresented EM classification title of Executive Director of Public Works.
- I. On June 19, 2018, the City Council adopted Resolution No. 2018-039, amending the City’s Basic Classification and Compensation Plan Resolution No. 2015-026, Exhibit A, changing the unrepresented EM classification title of Executive Director of Personnel Services to Executive Director of Human Resources.
- J. On June 18, 2019, the City Council adopted Resolution No. 2019-054, amending the City’s Basic Classification and Compensation Plan Resolution No. 2015-026, Exhibit A, adding the classification title for the unrepresented EM classification of Library Services Director and changing the salary rate range for the unrepresented EM classifications of Assistant City Manager and Deputy City Manager.
- K. On August 20, 2019, the City Council adopted Resolution No. 2019-070, reinstating the Library Department with the Library Services Director as the Executive Director.
- L. In an effort to delete obsolete language and clarify the classification and compensation of unrepresented EM employees delineated in Resolution No. 2015-026, it is now desired to amend Council Resolution No. 2015-026, Exhibit A (attached hereto as Exhibit “A”) and to reflect the Schedule of Salary Rate Ranges for Unrepresented Executive-Management Classes of Employment Effective October 20, 2020 (attached hereto Exhibit “A” and marked as Attachment “1”).
- M. The City Council has amended and re-established the Basic Classification and Compensation Plan on numerous occasions since adoption.

Section 2: That except as amended by this Resolution, all other provisions of Resolution No. 2015-026, as amended, shall remain in full force and effect.

Section 3: This Resolution shall be operative immediately upon adoption by the City Council.

ADOPTED this 17th day of November, 2020.

Miguel A. Pulido
Mayor

APPROVED AS TO FORM:
Sonia R. Carvalho
City Attorney

By: Laura A. Rossini
Laura A. Rossini
Acting Chief Assistant City Attorney

AYES: Councilmembers: _____

NOES: Councilmembers _____

ABSTAIN: Councilmembers _____

NOT PRESENT: Councilmembers _____

CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, Daisy Gomez, Clerk of the Council, do hereby attest to and certify the attached Resolution No. 2020-____ to be the original resolution adopted by the City Council of the City of Santa Ana on November 17, 2020.

Date: _____

Clerk of the Council
City of Santa Ana

Exhibits: A: The Basic Classification and Compensation Plan for Classifications of Employment Designated as Unrepresented Executive Management (EM).

Attachment 1: Schedule of Salary Rate Ranges for Classifications of Employment Designated as Unrepresented Executive Management (EM), Effective 11/17/2020.

EXHIBIT A

THE BASIC CLASSIFICATION AND COMPENSATION PLAN FOR CLASSIFICATIONS OF EMPLOYMENT DESIGNATED AS UNREPRESENTED EXECUTIVE MANAGEMENT (EM).

Unrepresented Executive Management (EM) Basic Classification and Compensation Plan, Effective November 17, 2020.

Section 1. Executive Management (EM) Classifications and Compensation Plan.

A. Unrepresented Executive Management (EM) Employee Classifications

Assistant City Manager (EM)
Chief Technology Innovations Officer (EM)
Library Services Director (EM)
Executive Director of Community Development (EM)
Executive Director of Finance and Management Services (EM)
Executive Director of Human Resources (EM)
Executive Director of Parks, Recreation and Community Services (EM)
Executive Director of Planning and Building Safety (EM)
Executive Director of Public Works (EM)
Police Chief (EM)

B. Schedule of Salaries. A Schedule of Salary Rate Ranges for classifications of employment designated as Unrepresented Executive Management (EM), is attached hereto as Attachment "1" and made a part hereof as though set forth in full herein. The assigned salary schedule number for Unrepresented Executive Management (EM) classifications and effective dates is listed as follows:

<u>Unrepresented EM Classifications</u>	<u>Salary Schedule No.</u>	<u>Effective Date</u>
Assistant City Manager (EM)	EM-40	11/17/2020
Chief Technology Innovations Officer (EM)	EM-20	11/17/2020
Executive Director of Community Development (EM)	EM-20	11/17/2020
Executive Director of Finance and Management Services (EM)	EM-20	11/17/2020
Executive Director of Parks, Recreation and Community Services (EM)	EM-20	11/17/2020
Executive Director of Human Resources (EM)	EM-20	11/17/2020
Executive Director of Planning and Building Safety (EM)	EM-30	11/17/2020
Executive Director of Public Works (EM)	EM-30	11/17/2020
Library Services Director (EM)	EM-10	11/17/2020
Police Chief (EM)	EM-40	11/17/2020

C. Deleting the following full-time classification title at the current monthly fifteen-step salary rate range indicated:

<u>15-Step Salary Rate Range Effective 7/1/20</u>		
<u>Classification Title</u>	<u>SSR</u>	<u>Monthly Salary Minimum-Maximum</u>
Deputy City Manager	EM-39	\$11842 – 14075 - 16732

The Unrepresented Executive Management (EM) salary schedule contains several salary ranges, each salary range is shown in monthly amounts. The ranges are identified by a two-digit number preceded by the capital letters "EM" for Executive Management. The salary within each salary range is identified by the minimum salary of the range up to the maximum salary of the range.

Terminal Classifications. Should a classification be identified as a terminal classification, the capitalized letter "T" shown within parenthesis [i.e., (T)] next to a classification title signifies a position classification that has been designated as "terminal" by formal City Council action and, as such, will be deleted from The Basic Classification and Compensation Plan for Unrepresented Executive Management (EM) classifications of employment when vacated by its last remaining incumbent. No new appointment may be made to a classification that has been designated as terminal.

Section 2. Special Pay Additives and Additional Compensation Provisions.

A. Bilingual Skill Pay. Qualified employees who are assigned to positions involving the regular and frequent use of bilingual skill in both English and either Spanish, Vietnamese or any other language designated by the City Manager will be paid in the highest amount as available to represented management employees. Incumbents of positions where bilingual proficiency is essential to the performance of duties and responsibilities of a critical and/or emergency nature, or of positions where bilingual public contact is a major, essential or integral element of the work being performed, will be paid in the highest amount as available to represented management employees.

B. Education Incentive Pay – Sworn Unrepresented Executive Management. Upon adoption of this resolution, employees of this unit currently appointed to a position on this date defined as sworn Executive Management, will be afforded and/or subject to the same provisions and/or changes to the Education Incentives Levels 1-4 as sworn Police Management Association (PMA) provided in Section 6.2 A. of the Police Management Association Memorandum of Understanding.

Section 3. Administration and Applicability of the Basic Classification and Compensation Plan for Classifications of Employment Designated as Unrepresented Executive Management (EM).

A. Unless specified otherwise herein, Unrepresented Executive Management (EM) employees will be afforded, and/or subject to the same provisions and/or changes in compensation (excluding cost of living adjustments), fringe benefit plans and

allowances, and leave provisions including but not limited to; sick, vacation, management vacation, floating holiday(s); bereavement leave; military leave; jury duty; witness leave; catastrophic, and industrial injury leave; City observed paid holidays and holiday closures; cash out provisions for: sick leave, vacation, management vacation, floating holiday, and city paid holidays; City's Section 125 Plan, group health, dental, term life, and long-term disability allowances and plans; wellness plan; technology stipend; auto allowance; access to participation in the City's voluntary benefit plans (e.g., vision, flexible spending accounts, supplement life insurance, and 457(b) deferred compensation plan); CalPERS Retirement System; Retirement Health Savings Plan (RHS) participation, including any employer contribution to the employee's individual RHS plan or the same employer contribution to an association's or union's retiree health savings or similar plan on behalf of the member; work week schedules, as provided in the highest amount available to any non-sworn represented employee's unit.

B. Compensation Plan Implementation. Upon implementation of the Basic Classification and Compensation Plan set forth in Sub-section 1.B. of this Resolution Exhibit, a current incumbent of an Executive Management (EM) classification listed herein above will be placed at a monthly rate in the assigned salary range which matches the incumbent's current assigned base monthly salary on the day preceding the effective date of this Resolution.

C. Hiring Pay Policy. A newly hired Executive Management (EM) employee may be appointed and compensated at any monthly salary rate within the assigned salary rate range for his/her job classification as authorized by the appointing authority.

D. Rates of Pay for Temporary Part-Time Work. When an employee is hired on a temporary part-time basis in an Executive Management (EM) classification, which is defined as employment of twenty (20) hours or less per work week not exceed a period longer than one hundred eighty (180) calendar days or nine-hundred and sixty (960) hours in a fiscal year, the employee will be paid at a rate per hour as defined by law for actual time spent in the duties of his or her employment. Rate per hour will be computed to the nearest whole cent by dividing the monthly rate as defined by law by 173.33. A computation resulting in exactly one-half (1/2) cent will fix the rate at the next higher whole cent.

E. Temporary Upgrade to an Executive Management (EM) Classification. Regular employees of the City who are incumbents of classes of employment not included in this resolution exhibit and who are temporarily upgraded into a higher classification for a limited duration to an Executive Management (EM) classification due to a current incumbent's leave of absence or out-of-class temporary appointment as defined in Section 3.I below, shall receive a minimum five percent (5%) temporary upgrade pay as defined by CCR 571(a)(3) as "compensation to employees who are required by their employer or governing body to work in an upgraded position/classification of limited duration", and is intended to meet the definition of "Compensation Earnable" for Classic members of CalPERS as provided by the Public Employees' Retirement Law (PERL), and Government Code (G.C.) section 20636.

F. Out-of-Class Appointment to an Executive Management (EM) Classification. Regular employees of the City who are incumbents of classes of employment not included in this resolution exhibit and who are appointed to an “out-of-class appointment” as defined in Gov. Code section 20480 of the Public Employees’ Retirement Law (PERL) as, “an appointment to an upgraded position or higher classification by an employer or governing body in a vacant position for a limited duration not to exceed nine-hundred sixty (960) hours in a fiscal year”. A “vacant position” refers to “a position that is vacant during recruitment for a permanent appointment”. A vacant position does not refer to a position that is temporarily available due to another employee’s leave of absence. Executive Management (EM) classification shall receive a minimum five percent (5%) temporary upgrade premium as defined by CCR 571(a)(3) as “compensation to employees who are required by their employer or governing body to work in an upgraded position/classification of limited duration”, and is intended to meet the definition of “Compensation Earnable” for Classic members of CalPERS as provided by the Public Employees’ Retirement Law (PERL), and Government Code (G.C.) section 20636.

G. Reallocation of Salary Rate Ranges. When an employee is in an Executive Management (EM) classification which is reallocated from the current salary rate range to a different salary rate range, the employee will retain the same salary he or she held prior to the reallocation.

Section 4. Health and Welfare Benefits.

The following optional insurance benefits available to Executive Management (EM) employees are provided through the City’s Section 125 Cafeteria Plan adopted in accordance with the provisions of Internal Revenue Code § 125.

Under City Council Resolution No. 98-54, the City elected to be subject to the Public Employees’ Medical & Hospital Care Act (PEMHCA) to provide medical insurance through CalPERS for Unrepresented Executive Management Classifications. The City’s contribution for each employee meets the statutory minimum using the “Unequal Method” California Government Code § 22892(c) (AB-2544).

The City will contribute an allowance, which includes the PEMHCA statutory minimum towards the employee’s cafeteria plan in the highest amount as available to any represented employees’ unit covered under the PEMHCA plan.

A. Medical insurance. Eligible Executive Management (EM) employees may choose from the eligible medical insurance plan options offered by CalPERS. If an employee waives medical coverage, they must provide proof of current enrollment in a qualified non-City sponsored group health coverage plan.

B. Dental insurance. Eligible Executive Management (EM) employees will have the ability to select either an HMO or PPO dental insurance plan.

C. Vision insurance. Eligible Executive Management (EM) employees will have the ability to voluntarily select vision insurance coverage through the City's insurance provider.

D. Cash-in-Lieu of Benefits. Executive Management (EM) employees will be eligible to receive cash (subject to taxation as wages) through the City's cafeteria plan if they either waive/opt-out of receiving group health and/or dental benefits after providing proof of other group medical and/or dental coverage under a spouse or registered domestic partner's non-City sponsored plan, or if the premium of the City medical and dental plans they elect do not cost as much as the maximum allowance they receive toward such benefits.

E. Employee Contributions for Benefits. If an Executive Management (EM) employee chooses group or voluntary benefits whose aggregate premium cost exceeds the maximum City contributions to the cafeteria plan, the City will automatically deduct the excess premium amount on a pre-tax basis (through the City's Section 125 plan) from the employee's regular paycheck.

F. Disability Insurance. The City will pay one hundred percent (100%) of the premium cost for a long-term disability insurance plan under the policy it maintains on behalf of its employees in order to provide Executive Management (EM) employees a monthly benefit plan as provided to the highest amount as available to any represented employees' unit covered by the City's plan.

G. Life Insurance and Accidental Death & Personal Loss (AD&PL). The City will pay one hundred percent (100%) of the premium cost for term life and AD&PL insurance coverage under the policy it maintains on behalf of its employees in order to provide Executive Management (EM) employees with life and AD&PL insurance coverage in an amount equal to three times the employee's annual rate of salary to a maximum of \$300,000, or the highest maximum amount as available to any represented employee unit, provided that Executive Management (EM) employees can provide evidence of insurability for coverage above the guaranteed amount, if so required by the terms and conditions of said term life and AD&PL insurance policy.

In the event an Executive Management (EM) employee is determined to be ineligible for the full benefit of said insurance coverage, the amount of life insurance will be equal the amount for which the employee is eligible for without having to provide evidence of insurability.

Section 5. Leave Accruals and Cash-Out Provisions.

Unless otherwise provided, the highest leave accrual, maximum accrual, and cash-out provisions provided to any represented employee's unit, will also be offered to the classifications listed in this resolution exhibit including but not limited to; paid holidays, floating holidays, holiday closures, vacation, "must-use" vacation, and management vacation.

A. Management Vacation Leave.

Executive Management (EM) employees listed in this Resolution Exhibit meet the definition of “exempt” under Section 13(a)(1) of the Fair Labor Standards Act (FLSA).

1. Executive Management (EM) employees will be granted one hundred (100) hours of management vacation per calendar year in addition to regular vacation accrual provisions applicable to represented employees of the City.

2. The City Manager is authorized to grant, at his or her discretion, additional management vacation leave hours per calendar year.

B. Vacation and Sick Leave Credits for New Hires. The City Manager is authorized to grant a newly appointed Executive Management (EM) employee vacation and sick leave credits up to an amount equal to any earned but unused vacation or sick leave credits available to such appointee at the time of his or her separation from his or her most recent previous employer.

C. Vacation Leave Rate of Accrual. The City Manager is authorized to provide longevity credits towards the rate of vacation hours’ accrual for a newly appointed Executive Management (EM) employee. The longevity credit can only be used for the purpose of rate of vacation accrual.

D. Paid or unpaid Administrative Leave Policy. The City Manager is authorized to grant, at his or her discretion, a paid or unpaid leave of absence for Executive Management (EM) employees.

Section 6. Retirement Plan Contributions.

A. The terms of the existing contract between the City and California Public Employees’ Retirement System (CalPERS) governing the City retirement benefits of Executive Management (EM) employees covered by this Resolution are incorporated by reference herein. The City will make contributions to CalPERS in accordance with its contract with CalPERS for employees covered by said contract as amended.

B. The California Public Employees’ Pension Reform Act (PEPRA) went into effect on January 1, 2013. Based on consideration of various eligibility factors, PEPRA defines each employee as either a “classic” or “new” member of CalPERS.

C. 2.7% at 55 Service Retirement Benefit for Classic Miscellaneous Members. The City agrees to provide Executive Management (EM) employees covered by this Resolution, and who are defined as Classic Miscellaneous Members under the California Public Employees’ Pension Reform Act (PEPRA) of 2013 (AB340), with the 2.7% at 55 Service Retirement benefit.

D. Payment of 2.7% at 55 Service Retirement Benefit. Classic Miscellaneous Executive Management (EM) employees covered by this Resolution will contribute eight percent (8%) of CalPERS reportable compensation toward the employer cost of the 2.7% at 55 enhanced retirement formula. This payment will be implemented as cost-

sharing pursuant to Government Code Section 20516(f).

1. Pre-Taxable Benefit. To the extent permitted by CalPERS and Internal Revenue Service regulations, this eight percent (8%) employee contribution will be implemented through payroll deductions on a pre-tax basis.

E. 2.0% at 62 Service Retirement Benefit for New Miscellaneous Members. The City agrees to provide Executive Management (EM) employees covered by this Resolution who were appointed to their classification on or after January 1, 2013, and who are defined as new members under the California Public Employees' Pension Reform Act (PEPRA) of 2013 (AB340), with the 2.0% at 62 Service Retirement benefit.

F. Payment of 2.0% at 62 Service Retirement Benefit. Executive Management (EM) employees defined in 6.E. (above) will contribute at least 50% of normal cost of the 2.0% at 62 retirement benefit.

1. Pre-Taxable Benefit. To the extent permitted by CalPERS and Internal Revenue Service regulations, the City will make the above employee deductions pre-tax contributions.

G. 3% at 50 Service Retirement Benefit for Classic Safety Members. The City agrees to provide Executive Management (EM) employees covered by this Resolution, and who are defined as Classic Safety Members under the California Public Employees' Pension Reform Act (PEPRA) of 2013 (AB340), with the 3% at 50 Service Retirement benefit.

H. Payment of 3.0% at 50 Service Retirement Benefit. Classic Safety Executive Management (EM) employees defined in 6.G. (above) will contribute nine percent (9%) of CalPERS reportable compensation toward the employer cost of the 3.0% at 50 enhanced retirement formula. This payment will be implemented as cost-sharing pursuant to Government Code Section 20516(f).

1. Pre-Taxable Benefit. To the extent permitted by CalPERS and Internal Revenue Service regulations, this nine percent (9%) employee contribution will be implemented through payroll deduction on a pre-tax basis.

I. 2.7% @ 57 Retirement Benefit for New Safety Members. The City agrees to provide Executive Management (EM) employees covered by this Resolution who were appointed to their classification on or after January 1, 2013, and who are defined as new members under the California Public Employees' Pension Reform Act (PEPRA) of 2013 (AB340), with the 2.7% @ 57 Service Retirement benefit.

J. Payment of 2.7% at 57 Service Retirement Benefit. Executive Management (EM) employees defined in 6.I. (above) will contribute at least 50% of normal cost of the 2.7% at 57 retirement benefit.

1. Pre-Taxable Benefit. To the extent permitted by CalPERS and Internal Revenue Service regulations, the City will make the above employee deductions pre-tax contributions.

K. Final Compensation for Pension Calculation. Final compensation for Classic Safety and Classic Miscellaneous Members will be based on the highest annual average compensation earnable during the 12 consecutive months immediately preceding the effective date of his or her retirement, or some other 12 consecutive month period designated by the member.

Final compensation for Safety and Miscellaneous Members who are defined as New Members under PEPRA will be based on the highest annual average compensation earnable during the 36 consecutive months immediately preceding the effective date of his or her retirement, or some other 36 consecutive month period designated by the member.

L. Deferred Retirement for Classic Safety and Classic Miscellaneous Members as defined in Section D and H (above). The City will continue to make payments to CalPERS on behalf of each eligible affected employee in an amount necessary to pay one hundred percent (100%) of each employee's member contribution and report it to CalPERS as special compensation [Government Code §20636(C)(4)]. This contribution is known as Employer Paid Member Contribution (EPMC), which is equal to eight percent (8%) of reportable compensation for Classic Miscellaneous Members and nine percent (9%) for Classic Safety Members. Such payments will be credited to the individual employee's CalPERS account.

Such payments are not an increase in base salary and no salary rate range applicable to any of the employees covered by this Resolution will be changed or deemed to have been changed by reason thereof. As a result, the City will not treat these payments as ordinary income and thus will not withhold federal or state income tax from said payments. The City previously received a ruling from the Internal Revenue Service confirming that such payments are deferred compensation and not ordinary income. In the event that the City receives a new ruling from the Internal Revenue Service that such payments are ordinary income of the employees instead of deferred compensation, the City's obligation to make such payments will discontinue and in place thereof the reportable compensation of each Classic Miscellaneous Member eligible for the 2.7% at 55 Benefits Formula will be increased by eight percent (8%) and each Classic Safety Member eligible for the 3% at 50 Benefits Formula will be increased by nine percent (9%).

For the purpose of reporting an employee's compensation to CalPERS, the City will include these payments as if they were a part of the employee's reportable compensation.

Section 7. Tuition Reimbursement. Executive Management (EM) employees are eligible to participate in the Training and Education Assistance Program provided for all regular, full-time employees of the City. Reimbursement will be based on the cost of tuition, required enrollment/registration fees, miscellaneous fees (health, parking, student union fees, etc.) and all required texts, eBooks and related material for each

course. Maximum tuition reimbursement will be paid in the highest amount as available to other represented employees.

Section 8. Retirement Health Savings (RHS) Plan.

A. Employees participate in the “Vantage Care” Retirement Health Savings Plan (RHS), which designated ICMA-RC as the administrator of the plan. The City shall make contributions into the individual accounts of Executive Management (EM) employees as provided to the highest represented non-sworn employees’ unit.

1. Executive Management (EM) employees will contribute one and one-quarter percent (1.25%) of base pay into his/her individual RHS account each pay period.

2. Executive Management (EM) employees shall have the option to amend the current Executive Management plan design by mutual agreement of the majority within in the City’s agreement with ICMA-RC.

Section 9. Auto Allowance. With the exception of the Police Chief who receives a City vehicle, the City will contribute five hundred dollars (\$500) per month to each Executive Management (EM) employee to offset reasonable and necessary expenses for the operation, maintenance and insuring of an automobile. In lieu of receiving five hundred dollars (\$500) per month, the employee may request and be provided with an optional vehicle.

Section 10. Deferred Compensation. The City has established and maintains a deferred compensation plan pursuant to the provisions of Section 457(b) of the Internal Revenue Code. Executive Management (EM) employees covered under this resolution, at his or her sole discretion, may defer to have deposited into the City’s 457(b) plan a portion of his or her compensation up to the maximum amount permitted by law.

As permissible by law if the City is desirous of establishing a 401(a) deferred compensation plan at a future date, Executive Management (EM) employees covered under this resolution, at his or her sole discretion, may elect to participate into said 401(a) plan upon its establishment, and defer a portion of his or her compensation up to the maximum amount permitted by law.

All contributions into the 457(b) and 401(a) plan are voluntary employee contributions and will meet the requirements of the Internal Revenue Code.

Section 11. Executive Management (EM) Compensation Determination and Performance-Based Evaluation System. The provisions of the unrepresented Executive Management (EM) compensation determination and performance-based evaluation system are as follows:

A. Specific Compensation Determination.

1. The City Manager is hereby given the authority to set the individual compensation, to make adjustments thereto and to make appointments at any salary within the established rate range for all executive positions for which the City Manager is the appointing authority.

2. The City Manager may establish performance criteria and appraisal guidelines to be utilized in determining individual compensation for Executive Management (EM) employees.

3. After the salary of an employee has been first established and fixed under this plan, salary advancement through the salary range will be at the discretion of the City Manager.

B. Performance-Based Evaluation Purpose. The basic purpose of the performance-based evaluation system is to help attract, retain and motivate highly competent Executive Managers and to provide them with a strong incentive to excel.

1. Evaluation System Components. The evaluation system will be comprised of the following components:

2. Objectives. The system will include a list of outcome-based, measurable objectives to be achieved which have been mutually agreed upon between the City Manager or authorized appointing authority and each individual EM employee.

3. Managerial Behaviors. In addition to his or her performance in achieving agreed upon objectives, each Executive Manager will also be evaluated for his or her managerial behavior performance, including such behavior as communication (oral or written), analysis and problem solving, decision-making and judgment, planning and organization, management control, leadership, interpersonal relations, time-management, technical knowledge, handling of stress, etc.

C. Performance Evaluation Guidelines.

1. The City Manager will evaluate the performance of each of his or her Executive Management (EM) employees to determine their individual eligibility for a performance increase and how much, if any, increase will be given, but such increase cannot exceed the salary range maximum assigned. Such performance evaluation will be for a determined period preceding the date of the performance evaluation.

2. Performance Ratings. Each Executive Manager's performance in relation to his or her agreed upon objectives and managerial behaviors will be evaluated for an identified period according to the following performance rating scale:

<u>Point Rating</u>	<u>Performance Levels</u>
3	Significantly Exceeds Expectations: Consistently exceeds all objectives requirements and expectations by a wide margin.
2	Exceeds Expectations: Consistently meets all objectives and requirements and exceeds several.
1	Meets Expectations: Meets objectives and requirements.

3. Performance-Based Incentive Pay Bonus. At the discretion of the City Manager, each Executive Management (EM) employee who has achieved and maintained the maximum salary of their classification salary range for one (1) full year, may be eligible to receive a lump sum performance-based incentive pay bonus for extremely meritorious performance outside their regular job responsibilities. The calculation of the incentive pay bonus will be based on a percentage of current annual rate of base salary for the identified period in which the compensation was earned, in accordance with the following:

a. For overall performance rated as “Extremely Meritorious Performance,” an incentive pay bonus up to, but not to exceed seven and one-half percent (7.5%) in toto.

D. Application of Guidelines.

1. The incentive pay bonus granted under this plan is not an increase in base salary and no salary range applicable to any Executive Management employee covered by this Resolution will be changed or deemed to have been changed by reason of such incentive pay.

2. The lump sum incentive pay bonus defined for overall Extremely Meritorious Performance listed above in Section C.3. (a) is not intended to meet the definition of Special Compensation under Government Code Section 20636 (c) (1-7).

3. The City Manager will be responsible for the development and administration of detailed administrative procedures and guidelines for the consistent and effective application of the Unrepresented Executive Management (EM) performance-based evaluation system. Such procedures and guidelines will define how performance objectives, measures and standards are developed; when and how performance reviews are to be carried out; how performance component ratings and composite ratings will be scored; and how performance incentive pay bonuses are to be exercised.

Section 12. Miscellaneous Provisions

A. Catastrophic Leave Donation. Executive Management (EM) employees will be eligible to donate and receive catastrophic leave donations as provided to all other represented employees.

B. Technology Device Stipend. Executive Management (EM) employees who use their own personal electronic devices for City business in lieu of receiving a City owned device will be eligible to receive a stipend at a level matching that provided to all other represented employees.

D. At-Will Employment Relationship. With the exception of the Police Chief, classifications listed in Section 1. A. are defined as not excepted by the Civil Service System as defined in Section 1002 of the City of Santa Ana Code of Ordinance, Charter Article X – Civil Service and are considered to be employed “at-will” as defined by the California Labor Code section 2922. Employees appointed by, and serves the pleasure of, the City Manager. Nothing in this Resolution Exhibit shall prevent, limit, or otherwise interfere with the right of the City Manager to terminate employment of an employee at any time, with or without cause.

ATTACHMENT 1

Schedule of Salary Ranges for The Basic Classification and Compensation Plan for Classifications of Employment Designated as Unrepresented Executive-Management (EM)

Effective November 17, 2020

<u>Range No.</u>	<u>Monthly Salary Range Minimum - Maximum</u>
EM-10	\$12,444 - \$14,311
EM-20	\$14,075 - \$18,315
EM-30	\$15,537 - \$20,218
EM-40	\$17,581 - \$23,245