



Hardship and Emergency Withdrawals

Enclosed in this packet are three applications:

- 401(k) Plan Application for Hardship Withdrawal—Safe Harbor
- 401(k) Plan Application for Hardship Withdrawal—Facts and Circumstances
- 457 Plan Application for Emergency Withdrawal

Use the **401(k) Plan Application for Hardship Withdrawal—Safe Harbor** if the requested withdrawal from your 401(k) Shared Savings Plan account is for:

- Purchase of your principal residence (excluding mortgage payments).
- Uninsured medical expenses for yourself, your spouse, or your dependents.
- Payment of tuition, related education fees, and room and board expenses for the next 12 months of post-secondary education for you, your spouse, or your dependents.
- Prevention of eviction from, or foreclosure of, your principal residence.
- Payments for burial or funeral expenses for your deceased parent, spouse, child, or dependent.
- Expenses for the repair of damage to your principal residence that would qualify for the casualty deduction under section 165.
- Expenses and losses (including loss of income) incurred on account of a disaster declared by the Federal Emergency Management Agency (FEMA).

Use the **401(k) Plan Application for Hardship Withdrawal—Facts and Circumstances** if the requested withdrawal from your 401(k) Shared Savings Plan account is for:

- An immediate and heavy financial need not listed above

Use the **457 Plan Application for Emergency Withdrawal** if the requested withdrawal from your Section 457 Plan account is for:

- Severe financial hardship resulting from an illness or accident, loss of property due to casualty, or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond your control.

Each application includes instructions, documentation requirements, a copy of the Internal Revenue Code governing the withdrawals, and other important information. If you have any questions, e-mail the Deferred Compensation Program at deferred.compensation@ventura.org or call us at 805/654-2620.

Ventura County 401(k) Shared Savings Plan Facts and Circumstances Hardship Withdrawal

The Internal Revenue Service follows very stringent rules for this type of withdrawal and will examine it very closely if the Plan (or your tax return) is audited, which could occur in the future. If the IRS is not satisfied that you have adequately documented a hardship withdrawal, or that the reason given in support of the request was not within acceptable standards, you could be held in constructive receipt of not only the amount withdrawn, but any sums remaining in the Plan for your future benefit. You could be required to pay additional taxes on such funds, even though you have had no other control or custody of the funds.

More importantly, however, the IRS could determine that the Deferred Compensation Program was not requiring adequate documentation of financial need and was therefore granting unwarranted withdrawals. In that event, the IRS could declare the entire Plan in violation of tax laws and regulations. If this occurred, they could require taxes to be paid on all sums deferred by all participants, even those who have never made a withdrawal request.

It is because of our concern that either or both of these undesirable consequences could occur that we require you to submit documentation in support of your Application. The information you submit must demonstrate the existence of your financial need and show the amount of your financial need. Examples of documentation include an accident report and estimate to repair vehicle, doctor's statement with your expected return to work date, last statement from each creditor if you are requesting a withdrawal to cover unpaid balances, or similar documentation showing the existence and amount of your financial hardship.

A hardship withdrawal may be approved if the withdrawal is made on account of an immediate and heavy financial need of the employee and is necessary to satisfy the financial need. Whether an employee has an immediate and heavy financial need is determined based on all the relevant facts and circumstance. Generally, for example, the need to pay the funeral expenses of a family member would constitute an immediate and heavy financial need. A distribution made to an employee for the purchase of a boat or television would generally not constitute a distribution made on account of an immediate and heavy financial need.

For a complete statement of the rules for hardship withdrawals, see Treasury Regulations, section 1.401(k)-1(d)(3), attached at the end of this application form.

It's important you understand that, as part of your Application, you will need to declare the following under penalty of perjury under the laws of the State of California:

- You have incurred a financial hardship due to the reason(s) stated and the withdrawal amount designated is necessary to meet your financial need created by the hardship to the extent that no other funds are reasonably available through insurance or reasonable liquidation of your assets or those of your spouse or minor child(ren) to meet this financial need, to the extent such liquidation would not itself cause an immediate and heavy financial need.
- If the amount of your financial need exceeds the amount available in your 401(k) Plan account, you have additional resources available to meet the entire financial need.

If you want to apply for a Facts and Circumstances Hardship Withdrawal from the 401(k) Shared Savings Plan, complete the attached Ventura County 401(k) Shared Savings Plan Application for Hardship Withdrawal- Facts and Circumstances (Application) and submit to the Deferred Compensation Program along with all required documentation.

VENTURA COUNTY 401(K) SHARED SAVINGS PLAN
APPLICATION FOR HARDSHIP WITHDRAWAL- Facts and Circumstances

Complete this application and return it to the Deferred Compensation Program, Human Resources Division, 800 South Victoria Avenue #1970, Ventura, CA 93009-1970. Your completed application consists of pages 1 through 4 of the Application for Hardship Withdrawal along with all supporting documentation. Be sure to sign the Application on page 3.

General Information

Full name _____ Date of Birth _____

Complete address _____

Work phone (_____) _____

Home phone (_____) _____

Other phone (_____) _____

Social Security number _____ Employee ID number: _____

E-mail address _____

Marital status: Single Married Divorced/Widowed Other

Number of dependents (excluding self/including spouse, domestic partner, children, etc.): _____

Employment Information

Your Employment

Spouse's Employment

Employer/Dept.	_____	_____
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Address	_____	_____
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	_____	_____
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Phone number	_____	_____
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Occupation	_____	_____
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Employed since	_____	_____
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Current status	_____	_____
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Hardship Information

Describe the need that is precipitating this hardship request. Provide as much detail as possible, and include any extenuating circumstances, and circumstances that led to this need. Complete information will help Deferred Compensation Program staff evaluate your application as quickly as possible. Remember to include all documentation to support your request. This includes documenting the amount of the request.

How much do you wish to withdraw to satisfy the need described above? \$_____

I declare the following under penalty of perjury under the laws of the State of California: 1) I have incurred a financial hardship due to the reason(s) stated and the withdrawal amount designated is necessary to meet my financial need created by the hardship to the extent that no other funds are reasonably available through insurance or reasonable liquidation of my assets or those of my spouse or minor child(ren) to meet this financial need, 2) I understand that the withdrawal amount requested cannot exceed the amount required to meet the financial need, 3) if the amount of my financial need exceeds the amount available in my 401(k) Shared Savings Plan account, I have additional resources available to meet the entire financial need, 4) all information contained in this Application is true and correct, and 5) all information I supplied for purposes of processing my Hardship Withdrawal Application is true and correct.

By affixing my signature below, I authorize my employer, bank, or any other creditor listed on this Application to release any requested information to Deferred Compensation Program staff.

I authorize Deferred Compensation Program staff to execute the withdrawal and I further authorize Fidelity Investments to withhold taxes as indicated below. I understand that valuation of my account will be based on the last valuation date plus any contributions and earnings made after that date. I also understand that the amount withdrawn will be taken from investment options in which I am invested on a prorated basis, unless I direct otherwise.

I understand that this distribution is subject to federal and state income taxes. Further, I understand that if I am under the age of 59½, I will be assessed an additional 10% penalty, which will not be withheld from this distribution. I understand that my actual federal or state income tax liability may exceed the amount withheld from the distribution to me, and that I may be subject to tax penalties under the estimated tax payment rules if my estimated tax payments and withholding are inadequate.

For any amounts distributed to me, I elect to have _____% federal income taxes withheld. **The federal tax amount selected must be either 0%, or an amount 10% or higher.** (The amount of your state withholding will be 10% of your federal withholding.) Note: if you do not elect a federal withholding amount, it will delay processing of your Application.

Applicant's Signature

Date

Spouse's Signature (Required if married)

Date

For office use only

Applicant name: _____

Current balance: \$ _____

☐ Recommend approval in the amount of: \$ _____

Comments: _____

☐ Denied Reason for denial: _____

Approved/denied by: _____ Date: _____

Reviewed by DC staff: _____ Date: _____

Reviewed by County Counsel: _____ Date: _____

Internal Revenue Code

Hardship Withdrawals

(3) Rules applicable to hardship distributions--(i) Distribution must be on account of hardship. A distribution is treated as made after an employee's hardship for purposes of paragraph (d)(1)(ii) of this section if and only if it is made on account of the hardship. For purposes of this rule, a distribution is made on account of hardship only if the distribution both is made on account of an immediate and heavy financial need of the employee and is necessary to satisfy the financial need. The determination of the existence of an immediate and heavy financial need and of the amount necessary to meet the need must be made in accordance with nondiscriminatory and objective standards set forth in the plan.

(ii) Limit on maximum distributable amount--(A) General rule. A distribution on account of hardship must be limited to the maximum distributable amount. The maximum distributable amount is equal to the employee's total elective contributions as of the date of distribution, reduced by the amount of previous distributions of elective contributions. Thus, the maximum distributable amount does not include earnings, QNECs or QMACs, unless grandfathered under paragraph (d)(3)(ii)(B) of this section.

(B) Grandfathered amounts. If the plan so provides, the maximum distributable amount may be increased for amounts credited to the employee's account as of a date specified in the plan that is no later than December 31, 1988, or if later, the end of the last plan year ending before July 1, 1989 (or in the case of a collectively bargained plan, the earlier of—

(1) The later of January 1, 1989, or the date on which the last of the collective bargaining agreements in effect on March 1, 1986 terminates (determined without regard to any extension thereof after February 28, 1986); or

(2) January 1, 1991 and consisting of—

(i) Income allocable to elective contributions;

(ii) Qualified nonelective contributions and allocable income; and

(iii) Qualified matching contributions and allocable income.

(iii) Immediate and heavy financial need--(A) In general. Whether an employee has an immediate and heavy financial need is to be determined based on all the relevant facts and circumstances. Generally, for example, the need to pay the funeral expenses of a family member would constitute an immediate and heavy financial need. A distribution made to an employee for the purchase of a boat or television would generally not constitute a distribution made on account of an immediate and heavy financial need. A financial need may be immediate and heavy even if it was reasonably foreseeable or voluntarily incurred by the employee.

(B) Deemed immediate and heavy financial need. A distribution is deemed to be on account of an immediate and heavy financial need of the employee if the distribution is for—

(1) Expenses for (or necessary to obtain) medical care that would be deductible under section 213(d) (determined without regard to whether the expenses exceed 7.5% of adjusted gross income);

(2) Costs directly related to the purchase of a principal residence for the employee (excluding mortgage payments);

(3) Payment of tuition, related educational fees, and room and board expenses, for up to the next 12 months of post-secondary education for the employee, or the employee's spouse, children, or dependents (as defined in section 152, and, for taxable years beginning on or after January 1, 2005, without regard to section 152(b)(1), (b)(2) and (d)(1)(B));

(4) Payments necessary to prevent the eviction of the employee from the employee's principal residence or foreclosure on the mortgage on that residence;

(5) Payments for burial or funeral expenses for the employee's deceased parent, spouse, children or dependents (as defined in section 152, and, for taxable years beginning on or after January 1, 2005, without regard to section 152(d)(1)(B)); or

(6) Expenses for the repair of damage to the employee's principal residence that would qualify for the casualty deduction under section 165 (determined without regard to whether the loss exceeds 10% of adjusted gross income).

(iv) Distribution necessary to satisfy financial need--(A) Distribution may not exceed amount of need. A distribution is treated as necessary to satisfy an immediate and heavy financial need of an employee only to the extent the amount of the distribution is not in excess of the amount required to satisfy the financial need. For this purpose, the amount required to satisfy the financial need may include any amounts necessary to pay any federal, state, or local income taxes or penalties reasonably anticipated to result from the distribution.

(B) No alternative means available. A distribution is not treated as necessary to satisfy an immediate and heavy financial need of an employee to the extent the need may be relieved from other resources that are reasonably available to the employee. This determination generally is to be made on the basis of all the relevant facts and circumstances. For purposes of this paragraph (d)(3)(iv), the employee's resources are deemed to include those assets of the employee's spouse and minor children that are reasonably available to the employee. Thus, for example, a vacation home owned by the employee and the employee's spouse, whether as community property, joint tenants, tenants by the entirety, or tenants in common, generally will be deemed a resource of the employee. However, property held for the employee's child under an irrevocable trust or under the Uniform Gifts to Minors Act (or comparable State law) is not treated as a resource of the employee.

(C) Employer reliance on employee representation. For purposes of paragraph (d)(3)(iv)(B) of this section, an immediate and heavy financial need generally may be treated as not capable of being relieved from other resources that are reasonably available to the employee, if the employer relies upon the employee's representation (made in writing or such other form as may be prescribed by the Commissioner), unless the employer has actual knowledge to the contrary, that the need cannot reasonably be relieved—

(1) Through reimbursement or compensation by insurance or otherwise;

(2) By liquidation of the employee's assets;

(3) By cessation of elective contributions or employee contributions under the plan;

(4) By other currently available distributions (including distribution of ESOP dividends under section 404(k)) and nontaxable (at the time of the loan) loans, under plans maintained by the employer or by any other employer; or

(5) By borrowing from commercial sources on reasonable commercial terms in an amount sufficient to satisfy the need.

(D) Employee need not take counterproductive actions. For purposes of this paragraph (d)(3)(iv), a need cannot reasonably be relieved by one of the actions described in paragraph (d)(3)(iv)(C) of this section if the effect would be to increase the amount of the need. For example, the need for funds to purchase a principal residence cannot reasonably be relieved by a plan loan if the loan would disqualify the employee from obtaining other necessary financing.

(E) Distribution deemed necessary to satisfy immediate and heavy financial need. A distribution is deemed necessary to satisfy an immediate and heavy financial need of an employee if each of the following requirements are satisfied—

(1) The employee has obtained all other currently available distributions (including distribution of ESOP dividends under section 404(k), but not hardship distributions) and nontaxable (at the time of the loan) loans, under the plan and all other plans maintained by the employer; and

(2) The employee is prohibited, under the terms of the plan or an otherwise legally enforceable agreement, from making elective contributions and employee contributions to the plan and all other plans maintained by the employer for at least 6 months after receipt of the hardship distribution.

(F) Definition of other plans. For purposes of paragraph (d)(3)(iv)(C)(4) and (E)(1) of this section, the phrase plans maintained by the employer means all qualified and nonqualified plans of deferred compensation maintained by the employer, including a cash or deferred arrangement that is part of a cafeteria plan within the meaning of section 125. However, it does not include the mandatory employee contribution portion of a defined benefit plan or a health or welfare benefit plan (including one that is part of a cafeteria plan). In addition, for purposes of paragraph (d)(3)(iv)(E)(2) of this section, the phrase plans maintained by the employer also includes a stock option, stock purchase, or similar plan maintained by the employer. See §1.401(k)-6 for the continued treatment of suspended employees as eligible employees.

(v) Commissioner may expand standards. The Commissioner may prescribe additional guidance of general applicability, published in the Internal Revenue Bulletin (see 601.601(d)(2) of this chapter), expanding the list of deemed immediate and heavy financial needs and prescribing additional methods for distributions to be deemed necessary to satisfy an immediate and heavy financial need.

Ventura County 401(k) Shared Savings Plan Safe Harbor Hardship Withdrawal

The Internal Revenue Service follows very stringent rules for this type of withdrawal and will examine it very closely if the Plan (or your tax return) is audited, which could occur in the future. If the IRS is not satisfied that you have adequately documented a hardship withdrawal, or that the reason given in support of the request was not within acceptable standards, you could be held in constructive receipt of not only the amount withdrawn, but any sums remaining in the Plan for your future benefit. You could be required to pay additional taxes on such funds, even though you have had no other control or custody of the funds.

More importantly, however, the IRS could determine that the Deferred Compensation Program was not requiring adequate documentation of financial need and was therefore granting unwarranted withdrawals. In that event, the IRS could declare the entire Plan in violation of tax laws and regulations. If this occurred, they could require taxes to be paid on all sums deferred by all participants, even those who have never made a withdrawal request.

It is because of our concern that either or both of these undesirable consequences could occur that we require you to submit documentation in support of your Application. Therefore, you must submit the following documentation along with your Application:

- If your withdrawal is for the purchase of your principal residence **ONLY** (excluding mortgage payments). You must submit documentation showing the name of the seller, the name of the buyer, the closing date, the property address, and the amount of money required to close escrow. Depending on your situation, acceptable documentation is 1) the executed purchase/sales agreement and/or 2) the statement of estimated closing costs or estimated settlement statement. No second home, vacation home, or investment property expenses are allowed.
- If your withdrawal is for uninsured medical expenses for yourself, your spouse, your dependents (as defined by the IRS), or your beneficiary you must submit copies of medical bills, Explanation of Benefit statements from an insurer, or other proof of out-of-pocket costs incurred as a result of covered medical expenses. In the case of ongoing medical treatment, you may submit a licensed physician's statement estimating planned treatment and associated uninsured costs.
- If your withdrawal is for payment of tuition and related education fees, and room and board expenses for the next 12 months of post-secondary education for you, your spouse, your dependents (as defined by the IRS), or your beneficiary, you must submit a copy of acceptance or enrollment verification from a college or university, including a copy of a bill or statement for tuition and related covered expenses.
- If your withdrawal is for prevention of eviction from or foreclosure of your principal residence **ONLY**, you must submit a copy of the eviction or foreclosure notice, including documentation of the amount needed to prevent eviction or foreclosure. No second home, vacation home, or investment property expenses allowed.
- If your withdrawal is for payments for burial or funeral expenses for your deceased parent, spouse, child, dependent (as defined by the IRS), or your beneficiary, you must submit a copy of a bill, invoice, or estimate from a service provider for covered services, along with a written description of the decedent's relationship to you.
- If your withdrawal is for expenses for the repair of damage to your principal residence **ONLY** that would qualify for the casualty deduction under section 165, you must submit a copy of a bill, invoice, or estimate for repairs from a contractor, along with a written description of the casualty and related damage. No second home, vacation home, or investment property expenses allowed.
- If your withdrawal is for expenses such as food, shelter or loss of income on account of a disaster declared by the Federal Emergency Management Agency (FEMA), you must submit documentation that substantiates the immediate and heavy financial need such as estimates, contracts, receipts, invoices or statements.

For a complete statement of the rules for hardship withdrawals, see Treasury Regulations, section 401(k)-1(c)(3), attached at the end of the application form.

You may feel the requirement to submit documentation is unduly onerous and invasive, but the consequences of a less definitive and careful approach are so dire as to be unacceptable. You may be assured that your request will receive a careful and fair evaluation, and that your sensitive information will be treated with the highest confidentiality.

If your application is approved your distribution is subject to federal and state income taxes and, if you're under the age of 59½, you will be assessed an additional 10% penalty when you file your income taxes.

If you want to apply for a Safe Harbor Hardship Withdrawal from the 401(k) Shared Savings Plan, complete the attached Ventura County 401(k) Shared Savings Plan Application for Hardship Withdrawal – Safe Harbor (Application) and submit it to the Deferred Compensation Program along with all required documentation.

Deferred Compensation Program staff will review the Application and approve it if: 1) the Application is deemed complete, and 2) you have submitted the required documentation. If approved, we will then request the withdrawal of funds from Fidelity Investments.

**VENTURA COUNTY 401(K) SHARED SAVINGS PLAN
APPLICATION FOR HARDSHIP WITHDRAWAL – SAFE HARBOR**

Complete this application and return it to the Deferred Compensation Program, Human Resources Division, 800 South Victoria Avenue #1970, Ventura, CA 93009-1970. Be sure to provide the required supporting documentation or your application will be denied.

Full name _____ Date of Birth _____

Complete address _____

Work phone (_____) _____

Home phone (_____) _____

Other phone (_____) _____

Social Security number _____ Employee ID number: _____

E-mail address _____

Marital status: Single ☐ Married ☐ Divorced/Widowed ☐ Other ☐

This distribution is necessary to meet the expense checked below:

- ☐ Purchase of my principal residence (excluding mortgage payments)
- ☐ Uninsured medical expenses for me, my spouse, my dependents, or my beneficiary
- ☐ Payment of tuition and related education fees, and room and board expenses for the next 12 months of post-secondary education for me, my spouse, my dependents, or my beneficiary
- ☐ Prevention of eviction from or foreclosure of my principal residence
- ☐ Payments for burial or funeral expenses for my deceased parent, spouse, child, dependent, or beneficiary
- ☐ Expenses for the repair of damage to my principal residence that would qualify for the casualty deduction under section 165
- ☐ Expenses and losses (including loss of income) incurred on account of a disaster declared by the Federal Emergency Management Agency (FEMA)

Amount of withdrawal requested: \$ _____

I declare under penalty of perjury under the laws of the State of California: 1) all information contained in this Application is true and correct, 2) all information I supplied for purposes of processing my Application is true and correct, and 3) if the amount of my financial need exceeds the amount available in my 401(k) Shared Savings Plan account, I have additional resources available to meet the entire financial need.

I hereby authorize Deferred Compensation Program staff to contact my employer, bank, or any other creditor listed on this Application for Hardship Withdrawal regarding any of the information presented. By affixing my signature below, I authorize my employer, bank, or any other creditor listed on this Application to release any requested information to Deferred Compensation Program staff.

I authorize Deferred Compensation Program staff to execute the withdrawal and I further authorize Fidelity Investments to withhold taxes as indicated below. I understand that valuation of my account will be based on the last valuation date plus any contributions and earnings made after that date. I also understand that the amount withdrawn will be taken from investment options in which I am invested on a prorated basis, unless I direct otherwise.

I understand that this distribution is subject to federal and state income taxes. Further, I understand that if I am under the age of 59½, I will be assessed an additional 10% penalty, which will not be withheld from this distribution. I understand that my actual federal or state income tax liability may exceed the amount withheld from the distribution to me, and that I may be subject to tax penalties under the estimated tax payment rules if my estimated tax payments and withholding are inadequate.

For any amounts distributed to me, I elect to have _____% federal income taxes withheld. **The federal tax amount selected must be 0% or an amount 10% or higher.** (The amount of your state withholding will be 10% of your federal withholding.) Note: if you do not elect a federal withholding amount, it will delay processing of your Application.

Applicant's Signature

Date

Spouse's Signature (Required if married)

Date

For office use only

Current balance: \$ _____

☐ Approved Amount approved: \$ _____

☐ Denied Reason for denial: _____

Approved/denied by: _____ Date: _____

Reviewed by: _____ Date: _____

Internal Revenue Code

Hardship Withdrawals

(3) Rules applicable to hardship distributions--(i) Distribution must be on account of hardship. A distribution is treated as made after an employee's hardship for purposes of paragraph (d)(1)(ii) of this section if and only if it is made on account of the hardship. For purposes of this rule, a distribution is made on account of hardship only if the distribution both is made on account of an immediate and heavy financial need of the employee and is necessary to satisfy the financial need. The determination of the existence of an immediate and heavy financial need and of the amount necessary to meet the need must be made in accordance with nondiscriminatory and objective standards set forth in the plan.

(ii) Limit on maximum distributable amount--(A) General rule. A distribution on account of hardship must be limited to the maximum distributable amount. The maximum distributable amount is equal to the employee's total elective contributions as of the date of distribution, reduced by the amount of previous distributions of elective contributions. Thus, the maximum distributable amount does not include earnings, QNECs or QMACs, unless grandfathered under paragraph (d)(3)(ii)(B) of this section.

(B) Grandfathered amounts. If the plan so provides, the maximum distributable amount may be increased for amounts credited to the employee's account as of a date specified in the plan that is no later than December 31, 1988, or if later, the end of the last plan year ending before July 1, 1989 (or in the case of a collectively bargained plan, the earlier of—

(1) The later of January 1, 1989, or the date on which the last of the collective bargaining agreements in effect on March 1, 1986 terminates (determined without regard to any extension thereof after February 28, 1986); or

(2) January 1, 1991 and consisting of—

(i) Income allocable to elective contributions;

(ii) Qualified nonelective contributions and allocable income; and

(iii) Qualified matching contributions and allocable income.

(iii) Immediate and heavy financial need--(A) In general. Whether an employee has an immediate and heavy financial need is to be determined based on all the relevant facts and circumstances. Generally, for example, the need to pay the funeral expenses of a family member would constitute an immediate and heavy financial need. A distribution made to an employee for the purchase of a boat or television would generally not constitute a distribution made on account of an immediate and heavy financial need. A financial need may be immediate and heavy even if it was reasonably foreseeable or voluntarily incurred by the employee.

(B) Deemed immediate and heavy financial need. A distribution is deemed to be on account of an immediate and heavy financial need of the employee if the distribution is for—

(1) Expenses for (or necessary to obtain) medical care that would be deductible under section 213(d) (determined without regard to whether the expenses exceed 7.5% of adjusted gross income);

(2) Costs directly related to the purchase of a principal residence for the employee (excluding mortgage payments);

(3) Payment of tuition, related educational fees, and room and board expenses, for up to the next 12 months of post-secondary education for the employee, or the employee's spouse, children, or dependents (as defined in section 152, and, for taxable years beginning on or after January 1, 2005, without regard to section 152(b)(1), (b)(2) and (d)(1)(B));

(4) Payments necessary to prevent the eviction of the employee from the employee's principal residence or foreclosure on the mortgage on that residence;

(5) Payments for burial or funeral expenses for the employee's deceased parent, spouse, children or dependents (as defined in section 152, and, for taxable years beginning on or after January 1, 2005, without regard to section 152(d)(1)(B)); or

(6) Expenses for the repair of damage to the employee's principal residence that would qualify for the casualty deduction under section 165 (determined without regard to whether the loss exceeds 10% of adjusted gross income).

(iv) Distribution necessary to satisfy financial need--(A) Distribution may not exceed amount of need. A distribution is treated as necessary to satisfy an immediate and heavy financial need of an employee only to the extent the amount of the distribution is not in excess of the amount required to satisfy the financial need. For this purpose, the amount required to satisfy the financial need may include any amounts necessary to pay any federal, state, or local income taxes or penalties reasonably anticipated to result from the distribution.

(B) No alternative means available. A distribution is not treated as necessary to satisfy an immediate and heavy financial need of an employee to the extent the need may be relieved from other resources that are reasonably available to the employee. This determination generally is to be made on the basis of all the relevant facts and circumstances. For purposes of this paragraph (d)(3)(iv), the employee's resources are deemed to include those assets of the employee's spouse and minor children that are reasonably available to the employee. Thus, for example, a vacation home owned by the employee and the employee's spouse, whether as community property, joint tenants, tenants by the entirety, or tenants in common, generally will be deemed a resource of the employee. However, property held for the employee's child under an irrevocable trust or under the Uniform Gifts to Minors Act (or comparable State law) is not treated as a resource of the employee.

(C) Employer reliance on employee representation. For purposes of paragraph (d)(3)(iv)(B) of this section, an immediate and heavy financial need generally may be treated as not capable of being relieved from other resources that are reasonably available to the employee, if the employer relies upon the employee's representation (made in writing or such other form as may be prescribed by the Commissioner), unless the employer has actual knowledge to the contrary, that the need cannot reasonably be relieved—

(1) Through reimbursement or compensation by insurance or otherwise;

(2) By liquidation of the employee's assets;

(3) By cessation of elective contributions or employee contributions under the plan;

(4) By other currently available distributions (including distribution of ESOP dividends under section 404(k)) and nontaxable (at the time of the loan) loans, under plans maintained by the employer or by any other employer; or

(5) By borrowing from commercial sources on reasonable commercial terms in an amount sufficient to satisfy the need.

(D) Employee need not take counterproductive actions. For purposes of this paragraph (d)(3)(iv), a need cannot reasonably be relieved by one of the actions described in paragraph (d)(3)(iv)(C) of this section if the effect would be to increase the amount of the need. For example, the need for funds to purchase a principal residence cannot reasonably be relieved by a plan loan if the loan would disqualify the employee from obtaining other necessary financing.

(E) Distribution deemed necessary to satisfy immediate and heavy financial need. A distribution is deemed necessary to satisfy an immediate and heavy financial need of an employee if each of the following requirements are satisfied—

(1) The employee has obtained all other currently available distributions (including distribution of ESOP dividends under section 404(k), but not hardship distributions) and nontaxable (at the time of the loan) loans, under the plan and all other plans maintained by the employer; and

(2) The employee is prohibited, under the terms of the plan or an otherwise legally enforceable agreement, from making elective contributions and employee contributions to the plan and all other plans maintained by the employer for at least 6 months after receipt of the hardship distribution.

(F) Definition of other plans. For purposes of paragraph (d)(3)(iv)(C)(4) and (E)(1) of this section, the phrase plans maintained by the employer means all qualified and nonqualified plans of deferred compensation maintained by the employer, including a cash or deferred arrangement that is part of a cafeteria plan within the meaning of section 125. However, it does not include the mandatory employee contribution portion of a defined benefit plan or a health or welfare benefit plan (including one that is part of a cafeteria plan). In addition, for purposes of paragraph (d)(3)(iv)(E)(2) of this section, the phrase plans maintained by the employer also includes a stock option, stock purchase, or similar plan maintained by the employer. See §1.401(k)-6 for the continued treatment of suspended employees as eligible employees.

(v) Commissioner may expand standards. The Commissioner may prescribe additional guidance of general applicability, published in the Internal Revenue Bulletin (see 601.601(d)(2) of this chapter), expanding the list of deemed immediate and heavy financial needs and prescribing additional methods for distributions to be deemed necessary to satisfy an immediate and heavy financial need.

Important Notice to Participants Applying for Ventura County Section 457 Plan Emergency Withdrawal

This Ventura County Section 457 Plan Application for Emergency Withdrawal requests a lot of information from you regarding your need for emergency withdrawal and your situation. Deferred Compensation Program staff may also request additional information or clarification from you after you submit your Application. While you may feel that this process is onerous or invasive, detailed disclosure of your personal and financial information is required in order to protect the Plan and participants.

The Internal Revenue Service follows very stringent rules for this type of withdrawal and will examine it very closely if the Plan (or your tax return) is audited, which could occur in the future. If the IRS is not satisfied that you have adequately documented an emergency withdrawal, or that the reason given in support of the request was not within acceptable standards, you could be held in constructive receipt of not only the amount withdrawn, but any sums remaining in the Plan for your future benefit. You could be required to pay additional taxes on such funds, even though you have had no other control or custody of the funds.

More importantly, however, the IRS could determine that the Deferred Compensation Program was not requiring adequate documentation of financial need and was therefore granting unwarranted withdrawals. In that event, the IRS could declare the entire Plan in violation of tax laws and regulations. If this occurred, they could require taxes to be paid on all sums deferred by all participants, even those who have never made a withdrawal request.

It is because of our concern that either or both of these undesirable consequences could occur that we have chosen to handle emergency withdrawal requests in this manner. Again, you may feel it is unduly onerous and invasive, but the consequences of a less definitive and careful approach are so dire as to be unacceptable. You may be assured that your request will receive a careful and fair evaluation, and that your sensitive information will be treated with the highest confidentiality.

It's also important you understand that, as part of your Application, you will need to declare the following under penalty of perjury under the laws of the State of California:

- You have incurred a financial hardship due to the reason(s) stated and the withdrawal amount designated is necessary to meet your financial need created by the hardship to the extent that no other funds are reasonably available through insurance or reasonable liquidation of your assets or those of your spouse or minor child(ren) to meet this financial need.
- The amount of your financial hardship cannot be satisfied by any other distributions and nontaxable loans currently available under all plans maintained by the County of Ventura or another employer, by borrowing from commercial sources on a reasonable commercial basis, or through other financial resources such as an annual leave/vacation buydown.
- If the amount of your financial need exceeds the amount available in your 457 Plan account, you have additional resources available to meet the entire financial need.

Please refer to page 7 of this Application for other important information.

To apply for an Emergency Withdrawal from the Section 457 Plan, complete the attached Ventura County Section 457 Plan Application for Emergency Withdrawal and submit it to the Deferred Compensation Program along with documentation to support your request. Deferred Compensation Program staff will review the Application and may ask you for additional information and documentation. Staff will make a determination of whether or not to approve your Application in accordance with Plan provisions and IRS rules and regulations regarding hardship withdrawals.

If your application is approved, we will: 1) notify you of our decision, 2) request the withdrawal of funds from Fidelity Investments, and 3) cancel any contributions you're making to the Section 457 Plan. You may not begin making contributions again for at least six months after the date this request is approved. If your application is denied, we will notify you of our decision. You will have the right to appeal the denial to the Deferred Compensation Committee.

Internal Revenue Code Emergency Withdrawals

(c) *Rules applicable to distributions for unforeseeable emergencies*—(1) *In general.* An eligible plan may permit a distribution to a participant or beneficiary faced with an unforeseeable emergency. The distribution must satisfy the requirements of paragraph (c)(2) of this section.

(2) *Requirements*—(i) *Unforeseeable emergency defined.* An unforeseeable emergency must be defined in the plan as a severe financial hardship of the participant or beneficiary resulting from an illness or accident of the participant or beneficiary, the participant's or beneficiary's spouse, or the participant's or beneficiary's dependent (as defined in section 152(a)); loss of the participant's or beneficiary's property due to casualty (including the need to rebuild a home following damage to a home not otherwise covered by homeowner's insurance, e.g., as a result of a natural disaster); or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the participant or the beneficiary. For example, the imminent foreclosure of or eviction from the participant's or beneficiary's primary residence may constitute an unforeseeable emergency. In addition, the need to pay for medical expenses, including non-refundable deductibles, as well as for the cost of prescription drug medication, may constitute an unforeseeable emergency. Finally, the need to pay for the funeral expenses of a spouse or a dependent (as defined in section 152(a)) may also constitute an unforeseeable emergency. Except as otherwise specifically provided in this paragraph (c)(2)(i), the purchase of a home and the payment of college tuition are not unforeseeable emergencies under this paragraph (c)(2)(i).

(ii) *Unforeseeable emergency distribution standard.* Whether a participant or beneficiary is faced with an unforeseeable emergency permitting a distribution under this paragraph (c) is to be determined based on the relevant facts and circumstances of each case, but, in any case, a distribution on account of unforeseeable emergency may not be made to the extent that such emergency is or may be relieved through reimbursement or compensation from insurance or otherwise, by liquidation of the participant's assets, to the extent the liquidation of such assets would not itself cause severe financial hardship, or by cessation of deferrals under the plan.

(iii) *Distribution necessary to satisfy emergency need.* Distributions because of an unforeseeable emergency must be limited to the amount reasonably necessary to satisfy the emergency need (which may include any amounts necessary to pay any federal, state, or local income taxes or penalties reasonably anticipated to result from the distribution).

**VENTURA COUNTY SECTION 457 PLAN
APPLICATION FOR EMERGENCY WITHDRAWAL**

Complete this application and return it to the Deferred Compensation Program, Human Resources Division, 800 South Victoria Avenue #1970, Ventura, CA 93009-1970. Your completed application consists of pages 1 through 8 of the Application for Emergency Withdrawal, copies of all supporting documentation, and copies of your (and your spouse's) 3 most recent paychecks. Be sure to sign the Application on page 7.

General Information

1. Full name _____ Date of Birth _____
2. Complete address _____
Work phone (____) _____
Home phone (____) _____
Other phone (____) _____
3. Social Security number _____ Employee ID number: _____
4. E-mail address _____
5. Marital status: Single ☐ Married ☐ Divorced/Widowed ☐ Other ☐
6. Number of dependents (excluding self/including spouse): _____

Employment Information

- | | Your Employment | Spouse's Employment |
|-----------------------|-----------------|---------------------|
| 7. Employer/Dept. | _____ | _____ |
| 8. Address | _____
_____ | _____
_____ |
| 9. Phone number | _____ | _____ |
| 10. Occupation | _____ | _____ |
| 11. Supervisor's name | _____ | _____ |
| 12. Employed since | _____ | _____ |
| 13. Current status | _____ | _____ |

Unforeseeable Financial Emergency Information

1. Check the reason for your withdrawal.

☐ Severe financial hardship resulting from illness or accident

☐ Loss of property due to casualty

☐ Severe financial hardship resulting from events beyond your control.

☐ Other

2. Describe the need that is precipitating this emergency request. Provide as much detail as possible, and include any extenuating circumstances, and circumstances that led to this need. *Be sure to completely describe how the events that led to this financial emergency are unforeseeable and out of your control.* Complete information will help Deferred Compensation Program staff evaluate your application as quickly as possible. Include all documentation to support your request. This includes documenting the amount of your request.

3. How much do you wish to withdraw to satisfy the need described above? \$_____

4. Have you exhausted *all* other available financial sources (savings accounts, vacation buydowns, loans - including 401(k) loans, liquidating assets, etc.)? _____

5. Have you applied to your credit union or bank for a loan meet your financial hardship? _____

If you have not, state the reason: _____

If the loan was denied, what was the reason given?: _____

Income

IMPORTANT: Be sure to convert your County of Ventura salary into a monthly amount. To do this, multiply your net biweekly pay by 26 pay periods, and then divide by 12.

Additionally, if any other payments are paid to you on a biweekly (or other non-monthly) basis, convert those to a monthly amount as well.

	Your Income	Spouse's Income
1. Net pay	\$ _____	\$ _____
2. Pension income	\$ _____	\$ _____
3. Unemployment/disability	\$ _____	\$ _____
4. Social Security income	\$ _____	\$ _____
5. Public assistance/Welfare	\$ _____	\$ _____
6. Food stamps/WIC	\$ _____	\$ _____
7. Child/spousal support	\$ _____	\$ _____
8. Veteran's benefits	\$ _____	\$ _____
9. Workers' Compensation	\$ _____	\$ _____
10. Rental income	\$ _____	\$ _____
11. Dividends/interest income	\$ _____	\$ _____
12. Other sources (specify):		
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____
Total Income	\$ _____	\$ _____

Expenses

1. Rent/mortgage (include all mortgage payments) \$ _____
 2. Real estate/property taxes \$ _____
 3. Homeowners/personal property insurance \$ _____
 4. Food – at home and eating out (for _____ persons) \$ _____
 5. Utilities \$ _____
 6. Transportation (gas/oil/repairs) \$ _____
 7. Automobile insurance \$ _____
 8. Clothing (for _____ persons) \$ _____
 9. Medical/dental payments \$ _____
(not including amounts contributed a health care flexible spending account)
 10. Dependent care \$ _____
(not including amounts contributed to a dependent care flexible spending account)
 11. Child/spousal support payments \$ _____
 12. Laundry/dry cleaning \$ _____
 13. Installment payments (provide detail on page 6) \$ _____
 14. Automobile payments (provide detail on page 6) \$ _____
 15. Credit card payments (provide detail on page 6) \$ _____
 16. Other (specify) \$ _____

- Total Expenses** \$ _____

Total Available Monthly Income

- Total Income** (from page 3) \$ _____
- Minus Total Expenses** (from above) \$ _____
- Total Available Monthly Income** \$ _____

Assets

- Cash in account _____ at _____

(acct #) (name of institution)
- \$_____
- Cash in account _____ at _____

(acct #) (name of institution)
- \$_____
- Cash in account _____ at _____

(acct #) (name of institution)
- \$_____
- 401(k) Shared Savings Plan balance \$_____
- Section 457 Plan balance \$_____
- Spouse's 401(k)/457/403(b)/other balance \$_____
- Value of IRA accounts for you and your spouse \$_____
- Personal property value (boats, household furnishings, etc.) \$_____
- Stocks, bonds, money market funds, mutual funds, etc. \$_____
- Cash value of whole life insurance (face amount \$_____) \$_____
- Market value of vehicle (car, motorcycle, motor home, etc.) \$_____
- Make/Model/Year_____
- Market value of vehicle (car, motorcycle, motor home, etc.) \$_____
- Make/Model/Year_____
- Market value of vehicle (car, motorcycle, motor home, etc.) \$_____
- Make/Model/Year_____
- Market value of real estate \$_____
- Other assets (specify)
\$_____
\$_____
\$_____
\$_____
\$_____
- Total Assets \$_____

Liabilities

Monthly Payment

Current Balance

1. Due on real estate

Lender _____ \$ _____ \$ _____

Lender _____ \$ _____ \$ _____

2. Due on vehicle(s):

Lender _____ \$ _____ \$ _____

Lender _____ \$ _____ \$ _____

3. Other creditors - include information for all payments listed in items 13, 14, and 15 on page 4. Additionally, include information for all payments made through payroll deduction. Attach additional information as necessary.

_____ \$ _____ \$ _____

_____ \$ _____ \$ _____

_____ \$ _____ \$ _____

_____ \$ _____ \$ _____

_____ \$ _____ \$ _____

_____ \$ _____ \$ _____

_____ \$ _____ \$ _____

_____ \$ _____ \$ _____

_____ \$ _____ \$ _____

_____ \$ _____ \$ _____

_____ \$ _____ \$ _____

_____ \$ _____ \$ _____

Total Liabilities

\$ _____

Acknowledgement and Authorization

I declare the following under penalty of perjury under the laws of the State of California: I have incurred a financial hardship due to the reason(s) stated herein and the withdrawal amount designated is necessary to meet my financial need created by the hardship to the extent that no other funds are reasonably available through insurance or reasonable liquidation of my assets or those of my spouse or minor child(ren) to meet this financial need. The amount of my financial hardship cannot be satisfied by any other distributions and nontaxable loans currently available under all plans maintained by the County of Ventura or any other employer, by borrowing from commercial sources on a reasonable commercial basis, by stopping my contributions to the Plan, or through other financial resources such as an annual leave/vacation buydown. If the amount of my financial need exceeds the amount available in my Section 457 Plan account, I have additional resources available to meet the entire financial need.

I further declare under penalty of perjury under the laws of the State of California that all information contained in this Application is true and correct and that all information I supplied for purposes of processing my Emergency Withdrawal Application is true and correct and further that this is a full and true statement of my financial status to the best of my knowledge.

I understand that my contributions to the 457 Plan will be cancelled and I may not begin making contributions again to the Plan for at least six months after the date this request is approved. I further understand that the withdrawal amount requested cannot exceed the amount required to meet the financial need.

I hereby authorize Deferred Compensation Program staff to contact my employer, bank, or any other creditor listed on this Application for Emergency Withdrawal regarding any of the information presented. By affixing my signature below, I authorize my employer, bank, or any other creditor listed on this Application to release any requested information to Deferred Compensation Program staff.

I authorize Deferred Compensation Program staff to execute the withdrawal if approved by the Deferred Compensation Committee and I further authorize Fidelity Investments to withhold taxes as indicated. I understand that valuation of my account will be based on the last valuation date plus any contributions made after that date. I also understand that the amount withdrawn will be taken from investment options in which I am invested on a prorated basis, unless I direct otherwise.

I understand that this distribution is subject to federal and state income taxes. I understand that my actual federal or state income tax liability may exceed the amount withheld from the distribution to me, and that I may be subject to tax penalties under the estimated tax payment rules if my estimated tax payments and withholding are inadequate.

For any amounts distributed to me, I elect to have _____% federal income taxes withheld. **The federal tax amount selected must be either 0%, or an amount 10% or higher.** (The amount of your state withholding will be 10% of your federal withholding.) Note: if you do not elect a federal withholding amount, it will delay processing of your Application.

Applicant's Signature

Date

Spouse's Signature (Required if married)

Date

Checklist

The Deferred Compensation Program staff needs to know the nature and extent of your financial hardship in order to evaluate your need adequately. More importantly, the Internal Revenue Service may require us to justify approval of Applications long after a withdrawal is granted. The information requested in this Application is intended to serve both these needs and must be complete. There is no intent to burden you and we would not require the information unless absolutely necessary. This Application, and your information, will be treated with the utmost confidentiality.

Please check the documentation you have submitted to support your claim of severe financial hardship and return this checklist as part of your Application.

- ☐ Your 3 most recent pay stubs (required).
- ☐ Your spouse's 3 most recent pay stubs (required if married, even if you're separated).
- ☐ Copy of bill, invoice, or estimate for repairs from a contractor, along with a written description of the casualty and related damage.
- ☐ Copy of an insurance carrier's statement indicating the portion of the property damage not covered by insurance.
- ☐ Copy of police or fire report.
- ☐ Copy of unpaid funeral bills.
- ☐ Copy of doctor's statement with your medical condition and expected return to work date.
- ☐ Copy of Workers' Compensation, SDI, or other pay stubs.
- ☐ Copy of last statement from each creditor if you are requesting a withdrawal to cover unpaid balances.
- ☐ Copy of last eviction or foreclosure notice including documentation of amount needed to prevent eviction or foreclosure.
- ☐ Letter from your spouse's employer verifying the amount of lost wages incurred.
- ☐ Loan denial letter from your bank or credit union.

For office use only

Applicant name: _____

Current balance: \$ _____

Eligible for 401(k) loan: ☐ Yes

☐ No

☐ Recommend approval in the amount of: \$ _____

Comments: _____

☐ Denied Reason for denial: _____

Approved/denied by: _____ Date: _____

Reviewed by DC staff: _____ Date: _____

Reviewed by County Counsel: _____ Date: _____