



DEFERRED COMPENSATION PLAN TRUST

Dear Applicant:

This letter is an effort to explain the rules and regulations governing the Deferred Compensation Board's evaluation of your request for an unforeseeable emergency withdrawal, in order that you might more fully appreciate the responsibility of the Board and why the detailed disclosure of your private financial information is required. Before you begin the process of applying for an unforeseeable emergency withdrawal, it is important that you understand the criteria for determining eligibility for a withdrawal and the restrictions placed on the Deferred Compensation Board and on you by Federal Law.

Deferred Compensation programs are **retirement plans** that must operate under strict Internal Revenue Service (IRS) rules and regulations in order to remain tax deferred. Unlike a savings plan, an IRA or a standard mutual fund, you do not have an entitlement to withdraw funds from your Deferred Compensation Plan while still employed, except under the very limited circumstances as outlined on pages 2 and 3 of this packet. Your current financial hardship may indeed be very difficult for you, yet still may not qualify for an Unforeseeable Emergency Withdrawal under IRS rules governing the City of Fresno Deferred Compensation Plan.

The IRS frequently conducts audits of 457, 401(k) and 403(b) plans and the City of Fresno's Deferred Compensation Plan is subject to such an audit by the IRS. An IRS audit would include a review and close examination of the applications and documents submitted for in-service withdrawals granted. If the IRS is not satisfied with the Board's decision that the financial hardship was the result of an unforeseen emergency, within the standards set forth in the IRC Section 457, the IRS could decide that you had access not only to your emergency withdrawal funds, but also to your entire account balance and could require you to pay additional taxes on these funds even though you have not had other control or custody of them. More importantly, however, the IRS could hold that the Board granted unwarranted withdrawals and could declare the entire plan in violation of tax laws and regulations. If this occurred, the tax-deferred status of the entire plan would be in jeopardy.

Because of the legal restrictions and possible audit consequences, the unforeseeable emergency withdrawal application does require extensive information concerning the nature of the unforeseen emergency and your financial status. You may feel it is unduly onerous and probing, but the consequences of a less careful approach are so dire as to be unacceptable to the Board. We keep all information strictly confidential – so your name will not appear on the Board meeting agenda when considering your application. The Board does not divulge any information which would personally identify you. Be assured that your request, if completely documented, will receive a careful and fair evaluation. If the Board finds your request to be within IRC Section 457 Section standards, it will act promptly to approve your request.

As you know, the money you have deferred under this Plan has not been included in your taxable income and thus no income taxes have been paid. If your hardship withdrawal request is granted, you will have to include the sum you are allowed to withdraw in your taxable income this year. It is your responsibility to comply with all federal and state laws.

If you have questions regarding this application, please call the Retirement Office at (559) 621-7080.

Sincerely,

City of Fresno
Deferred Compensation Board

City of Fresno

DEFERRED COMPENSATION PLAN

UNFORESEEABLE EMERGENCY
WITHDRAWAL APPLICATION PACKET

**CITY OF FRESNO DEFERRED COMPENSATION PLAN
UNFORESEEABLE EMERGENCY WITHDRAWAL APPLICATION**

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CITY OF FRESNO DEFERRED COMPENSATION PLAN
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LEGAL GUIDELINES FOR WITHDRAWAL OF
DEFERRED COMPENSATION FUNDS

ONE-TIME DISTRIBUTION OF \$5,000 OR LESS

Under section 08-01 of the City of Fresno Deferred Compensation Plan, a participant may select a distribution if all of the following conditions are met:

1. The total of the Participant's account does not exceed \$5,000;
2. The Participant has not authorized Deferred Compensation (contributions) under the Plan during the two (2) year period immediately preceding such request; and
3. The Participant has not previously applied for a withdrawal under this section.

If you feel you qualify for a one-time withdrawal under these provisions, please contact the Retirement Office at (559) 621-7080.

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LEGAL GUIDELINES FOR WITHDRAWAL OF DEFERRED COMPENSATION FUNDS

UNFORESEEABLE EMERGENCY
[26 CFR § 1.457 – 2(H)(4) AND (5)]

The Deferred Compensation Board may permit an emergency hardship withdrawal if the participant presents evidence of an **unforeseeable emergency** that results in a **severe financial hardship**.

1. An **unforeseeable emergency** is defined as a **severe financial hardship** resulting from:
 - A **sudden and unexpected illness or accident** of the participant or certain dependents. (Section 152(a) of the IRC provides that the term “dependent” means any of certain individuals over half of whose support, for the calendar year in which the taxable year of the taxpayer begins, was received from the taxpayer [participant]);
 - loss of property due to casualty; or
 - Other similar **extraordinary** and **unforeseeable** circumstances beyond the control of the participant.
2. Examples of what are **NOT** considered to be an **unforeseeable emergency** include, but are not limited to:
 - The need to send a child to college;
 - The desire to purchase a home;
 - Financial hardship resulting from excess debt or financial mismanagement;
 - Necessary repairs and maintenance
 - Living expenses, including payment of bills, debts, and loans.
 - Divorce
3. The amount of the withdrawal by the participant **cannot** exceed:
 - The amount *reasonably needed* to meet the emergency need; or
 - The total amount deferred by the participant.
4. Payment may **NOT** be made if the hardship **can** be relieved:
 - Through insurance or otherwise (such as obtaining a loan or using savings);
 - By liquidation of a Participant’s assets (if it would not itself cause severe financial hardship); or
 - By cessation of deferrals.

**CITY OF FRESNO DEFERRED COMPENSATION PLAN
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WORKSHEET

Deferred Compensation programs are **retirement plans** that must operate under strict IRS regulations in order to remain tax deferred. Unlike a savings plan, an IRA or a standard mutual fund, you do not have an entitlement to withdraw your deferred funds while still employed except under very limited circumstances as outlined on page 2 and 3. Your current financial hardship may indeed be very difficult for you, yet still not qualify for an Unforeseeable Emergency Withdrawal under IRS rules governing the City of Fresno Deferred Compensation Plan.

The worksheet below will help you determine whether you may qualify for a hardship withdrawal and, if you do, the amount that you may be able to withdraw to satisfy your severe financial hardship as defined by this Plan. **The final decision will be made by the Deferred Compensation Board.**

1. Are you truly experiencing a severe financial hardship (an emergency) and you have no other financial resources or options? YES NO
2. Was an unforeseeable, severe event the primary cause of your hardship? (Unforeseeable means there was no way you could have seen it coming.) YES NO

If you answered "Yes" to both questions, continue

3. Have you or one of your dependents had a **sudden or unexpected** illness or accident that caused expenses that are **not** covered by insurance? YES NO
4. Have you had a casualty to your property that caused expenses that are **not** covered by insurance? (Examples Fire, auto accident, flood, wind storm, etc.) YES NO
5. Have you had some other similar **extraordinary and unforeseeable** event that was beyond your control that caused expenses that are **not** covered by insurance? YES NO

If you answered "Yes" to at least one of questions 3 through 5, continue

To determine how much you can request to withdraw under hardship rules, write in the amount of loss **not** covered by insurance or any other reimbursement for each of the following that you checked as "Yes" above. In addition, attach documentation of expenses not covered by insurance or some other reimbursement.

6. Illness or accident: My expenses **NOT** covered are: \$ _____
7. Loss of property: My expenses **NOT** covered are: \$ _____
8. Other loss: My expenses **NOT** covered are: \$ _____

TOTAL \$ _____ qualifying expense claimed

Add the amounts in questions 6-8 above. This is the amount you may qualify to withdraw under the emergency hardship withdrawal rules.

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SUGGESTIONS AND ADDITIONAL INFORMATION FOR COMPLETION OF UNFORESEEABLE EMERGENCY WITHDRAWAL FORM

It is to your advantage to fill out the application thoroughly and completely. Please give as much information as possible to present a clear picture as to the nature of your hardship. Include copies of documents to verify expenses on page 3, copies of mortgage or rent statement, credit card statements, bank statements, utility bills, invoices, insurance statements, medical bills, pay stubs for one month for both you and your spouse, if you are married – anything that will help the Board in its decision. The Board will only consider expenses that have already been incurred or for which a legal commitment has been made.

Each application will be kept confidential to protect the applicant's privacy.

The Deferred Compensation Board must review all unforeseeable emergency withdrawal applications. Depending upon the amount of the request, the application will be handled in the following manner:

1. The Board approves or disapproves all applications. Approval or disapproval is final.

Although applicants are not required to be present for unforeseeable emergency withdrawal requests they will be informed of the date and time and encouraged to attend. The Board will adjourn to closed session when reviewing an unforeseeable emergency withdrawal application so that the applicant's privacy will be protected.

2. 10% of the distribution will be held for federal taxes. If you wish more taxes withheld you may make this request with your W-4P form.
3. When an application is approved, the Board will notify the applicant by letter and FAX a letter to Fidelity requesting the withdrawal.

In the event that the application is denied, a letter will be sent to the applicant indicating the reasons for denial.

**CITY OF FRESNO DEFERRED COMPENSATION PLAN
UNFORESEEABLE EMERGENCY WITHDRAWAL APPLICATION**

APPLICATION

DATE _____

CASE NO _____

PLEASE TYPE OR PRINT

PARTICIPANT'S NAME: _____ SSN _____

ADDRESS: _____

CITY and ZIPCODE: _____

DEPARTMENT of EMPLOYMENT: _____

WORK PHONE #: _____ HOME PHONE _____ FAX _____

I understand that Deferred Compensation Plans are regulated by the Internal Revenue Code and regulations put in force by the Treasury Department, which are summarized on page 4 of this application packet. I further understand that my request to withdraw funds may be granted only if I establish, to the satisfaction of the Deferred Compensation Board, that I have an unforeseeable emergency, which has resulted in a severe financial hardship, and that all legal requirements for withdrawal are met.

By submitting this unforeseeable emergency withdrawal application, I acknowledge that the Deferred Compensation Board or designee may review and investigate all available records that verify the information submitted in the application or are related to the hardship request, including information pertaining to my spouse, if married. I understand such information will be kept confidential to the extent possible and will only be used for purposes of the unforeseeable emergency withdrawal determination.

I declare under penalty of perjury, under the laws of the State of California that I have completed the application and to the best of my knowledge it is true, correct, and complete. This declaration was executed on _____ in _____, California.

Participant's Signature

Date

OFFICE USE ONLY		
DATE JOINED PLAN _____	AMOUNT DEFERRED _____	ACCOUNT BALANCE _____
CONTRIBUTIONS DISCONTINUED OR REDUCED? _____		
APPROVED <input type="checkbox"/> DENIED <input type="checkbox"/>		
BOARD SIGNATURE _____	DATE _____	

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Please answer the following questions thoroughly. FAILURE TO RESPOND COMPLETELY MAY BE CAUSE FOR DENIAL OF THIS REQUEST. ATTACH ADDITIONAL PAGES IF NECESSARY.

1. Please describe in detail your UNFORESEEABLE EMERGENCY which is the result of either:
 - A sudden and unexpected illness or accident of you or your dependent (if your dependent, specify relationship); or
 - Loss of your property due to casualty; or
 - Other similar extraordinary and unforeseeable circumstances beyond your control.

2. Please describe how your unforeseeable emergency has resulted in a severe financial hardship for you. In deciding whether a severe financial hardship exists, the Board will only consider expenses that have already been incurred by the applicant, or for which a legal commitment has been made.

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3. Pursuant to the IRS guidelines, you must have explored all other possibilities for relieving your hardship. **THIS MUST BE YOUR LAST RECOURSE.** Please explain why your financial hardship cannot be relieved through the following means:

A. Reimbursement or compensation by insurance (life, medical, casualty, health or other insurance):

B. By stopping your deferrals under the Plan: *(Please note that if you are experiencing a financial hardship, you should stop deferring to the Plan until the hardship passes.)*

C. Liquidation of your assets or property (including savings and bank accounts, investments, real property which is not your primary residence, and non-necessary personal property):

**CITY OF FRESNO DEFERRED COMPENSATION PLAN
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4. Have you submitted an application for a personal loan, or a loan secured by real property you own (from your bank or credit union, other financial institution, relative or other means) to relieve your hardship?

A. If not, please state the reason:

B. If your application was refused, please state the reason given:

5. If the emergency is caused by expenses of someone other than you, your spouse or dependent children, are you the sole person paying these expenses? Please explain:

6. What amount is *reasonably needed* to meet your emergency need? \$ _____
Please explain:

**CITY OF FRESNO DEFERRED COMPENSATION PLAN
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In order for the Board to determine your eligibility for an unforeseeable emergency withdrawal, please provide the following information concerning financial affairs:

BANK ACCOUNTS

Provide the Current Balance in:

	Balance
All Checking Accounts	\$ _____
All Credit Union Savings Accounts	\$ _____
All Bank Savings Accounts	\$ _____
All Savings & Loan Savings Account	\$ _____
All Other Accounts	\$ _____

PERSONAL PROPERTY (car, boat, etc.)

Provide the Estimated Value

	Item	Value
Specify		\$ _____
		\$ _____
		\$ _____
		\$ _____
		\$ _____
		\$ _____

REAL PROPERTY/INVESTMENTS (ATTACH COPY OF LAST STATEMENT)

Specify		\$ _____
		\$ _____

**CITY OF FRESNO DEFERRED COMPENSATION PLAN
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CREDIT CARD ACCOUNTS (ATTACH COPY OF LAST STATEMENT)

NAME OF CARD	CREDIT LIMIT	CURRENT BALANCE	AMOUNT PAST DUE	MINIMUM MONTHLY PAYMENT
	\$	\$	\$	\$
	\$	\$	\$	\$
	\$	\$	\$	\$
	\$	\$	\$	\$
	\$	\$	\$	\$
	\$	\$	\$	\$
	\$	\$	\$	\$
	\$	\$	\$	\$
	\$	\$	\$	\$
	\$	\$	\$	\$
	\$	\$	\$	\$
	\$	\$	\$	\$
	\$	\$	\$	\$
	\$	\$	\$	\$
	\$	\$	\$	\$
TOTAL MINIMUM MONTHLY PAYMENTS				\$

LOANS (ATTACH COPY OF LAST STATEMENT)

NAME OF CREDITOR	PURPOSE OF LOAN	ORIGINAL BALANCE	PRESENT BALANCE	AMOUNT PAST DUE	MINIMUM MONTHLY PAYMENT
		\$	\$	\$	\$
		\$	\$	\$	\$
		\$	\$	\$	\$
		\$	\$	\$	\$
		\$	\$	\$	\$
		\$	\$	\$	\$
		\$	\$	\$	\$
		\$	\$	\$	\$
TOTAL MINIMUM MONTHLY PAYMENTS					\$

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NET MONTHLY INCOME (BI WEEKLY NET SALARY X 26 PAY PERIODS ÷ 12 MONTHS)

Your Monthly Net Salary	\$	
Your Spouse's Monthly Net Salary	\$	
Other (Specify)	\$	
TOTAL INCOME	\$	
 NUMBER OF DEPENDENTS		

MONTHLY EXPENSES

Mortgage or Rent	\$	
Food	\$	
Utilities	\$	
Telephone	\$	
Other Household Expenses (specify)	\$	
	\$	
	\$	
Credit Card Account Payments (LIST ON PAGE 10)	\$	
Alimony/Child Support	\$	
Loans (LIST ON PAGE 10)	\$	
Life Insurance	\$	
Other (specify)	\$	
	\$	
	\$	
TOTAL MONTHLY EXPENSES	\$	

FEDERAL

[Link to the Federal Form W-4P Withholding Certificate for Pension or Annuity Payments](#)

It saves time in the process to complete this form at the time you complete the application. In the event the application is approved, this must be completed in order to withdraw money from Fidelity Investments.