

**FACT SHEET FOR HOTEL PROPERTY OWNERS**  
**PROPOSED CONVENTION CENTER FACILITIES DISTRICT**  
**SAN DIEGO CONVENTION CENTER EXPANSION PHASE III**

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**1. What is the Convention Center Facilities District (CCFD)?**

The Convention Center Facilities District (CCFD) will be a city-wide district. It establishes a framework to levy special tax on hotel properties consisting of 30 rooms or above. Levy and collection of CCFD special tax is to provide funding for the proposed San Diego Convention Center Phase III Expansion Project. The project adds contiguous space to the existing Convention Center located on Harbor Blvd.

**2. What is the CCFD Special Tax?**

The Convention Center Facilities District Special Tax is the special tax levied on the hotel owner. The owners of Assessor's Parcels classified as Hotel Property within the boundaries of the CCFD are subject to the CCFD Tax.

**3. What is the Tax Rate?**

The CCFD special tax is applied as a percentage of room rent, similar to the TOT and TMD assessment. It is collected and remitted to the City in the same manner as TOT and TMD assessment by the hotel operator. The tax formula will involve three tiers -- Hotels in the downtown area 3% of room revenue; hotels immediately outside of downtown in areas such as Mission Bay and Mission Valley 2% of room revenue; and hotels located in all other City locations 1% of room revenue.

**4. What is the remittance method for CCFD Special Tax?**

The process to remit the special tax will be the same as the current method for paying the TOT and TMD assessments to the City Treasurer. As with the TOT and TMD assessments, the special tax is required to be paid to the City Treasurer on or before the last day of the following month. Otherwise, the taxes become delinquent and subject to interest and penalties. If any hotel owner, or operator on behalf of the hotel owner, becomes delinquent, these steps are followed by the City:

- The City Treasurer first obtains the facts and information on which to base her estimate of the Special Tax due plus any penalties and interest. Penalties and interest begin to accrue starting on the first day of delinquency.
- The Special Tax on any Hotel Property which is not paid within the time required shall be subject to the same penalties applicable to the Transient Occupancy Tax (TOT).
- After reviewing the facts and a determination is made that special taxes are owed, the City Treasurer notifies the hotel owner or operator in writing in the form of a formal notice of the amount of special tax owed and any penalties and interest.
- The hotel owner, or operator on behalf of the hotel owner, may file an appeal as prescribed in the legal documents (the Rate and Method of Apportionment) which relies on the existing TOT procedures from the City's municipal code.

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**5. Can the CCFD Special Tax be passed through to the hotel guest?**

The CCFD Special Tax is levied on the real property containing the hotel. It is not levied on the hotel guest. However, similar to the TMD assessment on the businesses which are passed through to the hotel guests, it is up to the individual hotel property to pass through the CCFD special tax to the hotel guest. The City's Municipal Code does not require or prohibit the pass through of the special tax to the hotel guest.

**6. What are the consequences of late payment or non-payment of the special tax?**

It is important to understand that a hotel property's special tax delinquency needs to surpass a certain high threshold to qualify as a significant delinquency. **Small amounts of tax owed will not qualify as a high threshold.**

If the enforcement steps described in #4 do not cure the issue, the City Attorney, on behalf of the CCFD, *could* begin a foreclosure proceeding against the individual hotel property

This action item would be agendized at City Council for approval and would be publicly noticed and heard.

**However, if the hotel property remits all the back taxes and penalties, the proceeding will be suspended promptly.**

This foreclosure covenant by the City in the bond financing, in the event of significant tax delinquencies gives the bond investors the protection and assurance that all the special taxes supporting the debt service will be collected and paid.

**7. How frequently does the City file a lien in the case of a TOT delinquency?**

This process is different from the CCFD lien, in that the filing of a lien for delinquent TOT occurs **after** the delinquency and if payment is not made despite collection efforts. The history of TOT delinquencies illustrates how infrequently extreme measures are implemented by the City. For example, for the recent 10 year period City had to record only 28 liens on hotel properties citywide.

**8. What is CCFD Special Tax Lien?**

It is a lien on real property subject to the special tax within the CCFD. The lien becomes effective in conjunction with the formation of the district and upon receiving necessary recording of the Notice of Special Tax. This is only done following a two-thirds affirmative vote of the property owners authorizing the special tax. Also see Attachment.

**9. What is the Voting Process for the Special Tax levy?**

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It is the same as 2008 TMD assessment methodology. The votes will be allocated in proportion to the hotel revenue generated by the hotel and the tax burden to be undertaken, i.e., votes from hotels anticipated to pay higher special taxes will have proportionally more weight. The Notice of Special Tax sent to hotel owners will include the Rate and Method of Apportionment of Special Tax.

**10. Is the CCFD Special Tax levy similar to other voter approved taxes?**

Yes. Mortgage holders have no say and outstanding loan agreements are not affected. No lender can control how the hotel property owner can vote.

**11. What is Priority of the Special Tax Lien?**

The Special Tax lien is on an equal basis with the lien for other taxes and assessments levied by public agencies for other voter approved taxes found on a hotel's property tax bills.

*If you have any questions on the information provided in the Fact Sheet, please contact Mary Lewis, Chief Financial Officer, City of San Diego at (619) 236-7091 or, Lakshmi Kommi, Debt Management Director, City of San Diego, at (619) 236-6928.*

# TOT/ TMD ASSESSMENT AND CCFD SPECIAL TAX COMPARISON

	<b>SAN DIEGO TOT AND 2012 TMD ASSESMENT</b>	<b>SAN DIEGO CCFD – SPECIAL TAX</b>
<b><i>Legislative Authority</i></b>	TOT – San Diego Municipal Code (SDMC) TMD – San Diego Muni Code and San Diego Tourism Marketing District Procedural Ordinance	Charter City Authority, modifying state Mello-Roos law
<b><i>Hotels in the District</i></b>	TOT – All hotels in the City as defined in the SDMC section 35.0102 under “transient” with a stays less than a month. 2012 TMD – Hotels with 30 and above rooms	Hotels with 30 and above rooms
<b><i>Bonds Issued</i></b>	No	Yes. Solely for CC III expansion purposes
<b><i>Duration</i></b>	2012 TMD – up to 40 years	Up to 30 years – Terminates after final debt service payment on bonds, expected to have a 30 year term
<b><i>Authoritative Documents</i></b>	TOT Ordinance and TMD District Management Plan	Special Tax Ordinance and Rate & Method of Apportionment – provides classification of property, special tax based on 3-2-1 rate tiers, method of apportionment, exemptions, etc.
<b><i>Payment Method &amp; Frequency</i></b>	Hotels remit TOT and TMD assessment to City Treasurer monthly. Monthly returns due by the last day of the following month	<b>CCFD Special Tax payment same as TOT and TMD assessment</b>
<b><i>Security</i></b>	No upfront lien on hotel property securing TOT and TMD assessment.	Special tax is a lien on property – the lien is recorded as “a notice of special tax lien” upon the district following a two-third voter approval from the hotel property owners. Any delinquent taxes must be satisfied before the sale of the real property since the unpaid amounts are a lien against the property.

# TOT/ TMD ASSESSMENT AND CCFD SPECIAL TAX COMPARISON

	SAN DIEGO TOT AND 2012 TMD ASSESMENT	SAN DIEGO CCFD – SPECIAL TAX
<p><i>Enforcement Procedures for Payment</i></p>	<p>Enforcement methods rely on the following sequence implemented by the City’s Collections Unit:</p> <ol style="list-style-type: none"> <li>1. City issue of formal demand notice for payment in full of all delinquent taxes and/or penalties</li> <li>2. City issue of Certificate of Lien against the hotel’s real property for the amount of past due tax and assessment and penalties. (It is similar to federal tax lien on a property. If there is a tax lien on, the lien must be satisfied before the sale or refinancing of the real property since the unpaid amounts are a lien against the property).</li> <li>3. City issue of warrant on a hotel property bank account</li> <li>4. Referral to City Attorney for legal proceedings against the hotel property</li> </ol>	<p>Same as TOT and TMD for Step 1 -- The delinquent account is referred to the City’s Collections Unit. Collections staff outreach to the hotel property through reminders and demand letters. A Certificate of Lien is not issued due to the pre-existing lien for special tax on the hotel property when the district is formed.</p> <p>If a hotel property special tax delinquency surpasses a certain high threshold with significant delinquency and the enforcement step described above does not cure the issue, City Attorney, on behalf of the district, could begin a foreclosure proceeding against the individual hotel property. <b>However, if the hotel property remits all the back taxes and penalties, the proceeding will be suspended promptly.</b></p>