

ORDINANCE NO. _____

**ORDINANCE FOR DESIGNATION OF QUALIFIED PUBLIC USE
FACILITY, CREATION OF THE 185 UNION HOTEL TOURISM
DEVELOPMENT ZONE TOURISM SURCHARGE AND
OTHERWISE PROVIDING WITH RESPECT TO THE
FOREGOING**

WHEREAS, Memphis K&U, LLC or its affiliates (collectively, the “Hotel Owner”) owns the vacant 280-room hotel building located at the southeast corner of BB King Boulevard and Union Avenue along with a 152-space freestanding parking situated to the east at 0 Union Avenue, Memphis, Tennessee 38103 garage (“185 Union Hotel”) (tax parcels nos. 002066-00001C and 002065-00008) (“Hotel Site”); and

WHEREAS, Hotel Owner proposes to make capital investments for the redevelopment and long-term preservation of the 185 Union Hotel over the next twenty (20) years for a total estimated project cost of approximately Sixty-Three Million Dollars (63,000,000), including furniture, fixtures and equipment (the “185 Union Hotel Project”); and

WHEREAS, TCA §67-4-3002 authorizes the City of Memphis to designate certain projects as “Qualified Public Use Facilities”, including without limitation full-service hotels with not less than two hundred fifty (250) rooms and related retail, commercial, and parking space that are located in a tourism development zone; and

WHEREAS, TCA §67-4-3003 authorizes the City of Memphis to charge a 5% Tourism Surcharge on goods and services used by visitors at a qualified public use facility and other related facilities (the “Tourism Surcharge”); and

WHEREAS, the 185 Union Hotel Project is located in the portion of Downtown Memphis designated as a tourism development zone pursuant to the Convention Center and Tourism Development Financing Act of 1998, which is codified at TCA §7-88-101 et seq., (the “TDZ Act”); and

WHEREAS, the City of Memphis administration finds that it is wise, necessary, and advisable to designate the 185 Union Hotel Project as a “Qualified Public Use Facility” within the meaning of the TDZ Act as codified at TCA § 67-4-3002(7); and

WHEREAS, the City of Memphis administration finds that it is wise, necessary, and advisable to seek authorization from this Council to impose the Tourism Surcharge within the 185 Union Hotel Project; and

WHEREAS, to enact the Tourism Surcharge within the 185 Union Hotel Project, the City of Memphis administration has proposed the ordinance set forth below (the “Tourism Surcharge Ordinance”); and

WHEREAS, the City administration desires that the Council (i) approve the Tourism Surcharge Ordinance, and (ii) provide with respect to the foregoing.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Memphis as follows:

1. Sec. ____ - ____ -1. **Designation as Qualified Public Use Facility**

The hotel at the addresses municipally known as 185 Union Avenue and 0 Union Avenue, Memphis, Tennessee, containing not less than two hundred fifty (250) rooms, and related retail, commercial, and parking space (the "185 Union Hotel QPUF"), is hereby designated as a qualified public use facility as described in T.C.A. title 67, chapter 4, part 30 (as amended from time to time, hereinafter in this chapter called the "Act").

Sec. ____ - ____ -2. **Creation of District**

There is created the 185 Union Hotel Surcharge District (the "District") in accordance with the Act.

Sec. ____ - ____ -3. **District Boundaries**

The District created by this chapter shall be comprised of the area located in the city within the following boundaries:

Approximately .839 acres known as 185 Union Avenue and approximately .898 acres known as 0 Union Avenue more particularly described as follows:

PARCEL I

Parcel I of Memphis Plaza Hotel Partners, LTD-1 property described in Instrument Number V9 2782 and V6 1220 as recorded in the Shelby County Register's Office and more particularly described by metes and bounds as follows:

Beginning at the intersection of the east line of Third Street (66 feet wide) and the south line of Union Avenue (80 feet wide);

thence S69°51'48"E along the south line of Union Avenue a distance of 20.38 feet to a point; thence S33°14'32"E continuing along the south line of Union Avenue a distance of 20.61 feet to a point on the west line of Lot 1 of the Subdivision of the Washington Bolton property;

thence N20°28'39"E along the west line of Lot 1 a distance of 12.29 feet to a point on the south line of Union Avenue;

thence S69°51'48"E along the south line of Union Avenue a distance of 44.30 feet to a point of curvature, thence southeastwardly along a 20 foot radius curve to the right an arc distance of 27.55 feet to a point of tangency in the west line of Hernando Street (60 feet wide);

thence S09°04'15"W along the west line of Hernando Street a distance of 292.28 feet to a point, said point being on an extension of the line dividing Lots 36 and 37 of the Talbot Subdivision;

thence N69°13'02"W along a line dividing Lots 36 and 37 of said Talbot Subdivision a distance of 101.91 feet to a point;

thence N21°26'02"E a distance of 43.76 feet to a point; thence N69°28'56"W a distance of 58.80 feet (measured and called) to a crow's foot chisel mark (found) on the east line of Third Street;

thence N20°44'03"E along the east line of Third Street a distance of 257.74 feet to the POINT OF BEGINNING and containing 0.832 acres.

Municipal Address: 185 Union Avenue
Tax Parcel ID: 002066-00001C

PARCEL II

Parcel II of the Memphis Plaza Hotel Partners LTD-1 property described by Instrument Number V9 2782 as recorded in the Shelby County Register's Office and more particularly described by metes and bounds as follows:

Beginning at a point in the south line of Union Avenue (80 foot Right of Way), said point being 105.94 feet westward of the tangent intersection with the west line of Fourth Street (56 foot right of way), as measured along said south line;

thence S00°03'54"E a distance of 400.36 feet (call 399.99') to a point in the north line of Gayoso Avenue (40 foot Right of Way);

thence S89°57'37"W and with said north line, a distance of 95.64 feet to a point;

thence N09°37'07"W a distance of 126.53 feet to a point;

thence N02°52'48"E a distance of 62.16 feet to a point;

thence N01°29'45"E a distance of 20.01 feet to a point;

thence N89°50'16"E a distance of 28.02 feet to a point;

thence N00°22'43"W a distance of 193.26 feet (call 193.00 feet) to a point in the south line of Union Avenue;

thence N89°50'16"E, and along said south line, a distance of 85.95 feet to the POINT OF BEGINNING and containing 0.899 acres.

Municipal Address: 185 Union Avenue
Tax Parcel ID: 002065-00008

Sec. __ - ____ -4 **Surcharge Assessment**

The making of Sales (as such term is defined in the Act) by engaging in any Business (as such term is defined in the Act), except for those businesses exempt under T.C.A. title 67, chapter 4, part 712, in the District is declared to be a privilege. All such Sales shall be subject to the surcharge assessment provided in this Chapter and the City hereby levies such surcharge on all Sales.

Sec. __ - ____ -5 **Surcharge Assessment Rate**

The surcharge levied by this section shall be equal to five percent (5%) of the Sales Price (as such term is defined in the Act).

Sec. __ - ____ -6 **Mandatory Registration, Filing of Returns, Payment of Surcharge and Licensing**

All persons carrying on Business (as such term is defined by the Act) in the District, and all persons who may hereafter carry on Business in the District, shall register with the City Treasurer for the purpose of assessment and collection of the surcharge. All persons so registered shall file a return detailing Sales for the prior month and surcharge collected on account of such Sales on or before the twentieth (20th) day of each calendar month and shall remit all surcharge collected during such month, together with any delinquent payments of surcharge, with such return. Each person who files a return and remits the appropriate amount of surcharge shall be granted a license which such person shall display within their place of Business. The City Treasurer is hereby authorized and directed to develop the forms for registration and filing monthly returns, as well as rules and regulations regarding the filing of the same.

Sec. __ - ____ -7 **Delinquent Payments**

Any nonpayment or delinquent payment of any surcharge shall be subject to the rights and remedies described in Chapter 5-24 of the Memphis City Code.

Sec. __ - ____-8 **Allocation and Use of Revenues**

All revenues received by the city as a result of the surcharge, except for the reasonable expenses of the City Treasurer incurred as a result of its administrative duties under this chapter which shall not exceed one percent (1%) of the revenues, shall be designated for, and allocated to the payment of, the cost of the 185 Union Hotel QPUF, including, without limitation, all debt issued or incurred in the redevelopment and long-term preservation of the 185 Union Hotel QPUF, including principal, interest and other fees and charges.

Sec. __ - ____-9 **Remittance of Revenues**

On or before the fifteenth (15th) day of each month, the City Treasurer shall remit all revenues received during the prior month, less the aforescribed administrative fee, to CCRFC or its assignee. CCRFC, or its assignee, is hereby directed to deposit such revenues in accordance with the Act and any agreements governing the payment or reimbursement of costs incurred, or debt issued or incurred to finance or refinance costs, in connection with the development of the 185 Union Hotel QPUF.

Sec. __ - ____-10 **Termination of Surcharge**

The surcharge shall continue until terminated pursuant to the terms of the Act.

2. All actions heretofore undertaken by the Mayor or his designee and other officials, employees, attorneys and agents of the City in furtherance of the intent of this resolution, and of the documents authorized by this resolution, are hereby ratified, confirmed and approved.

3. The Mayor or his designee and other appropriate officials of the City are hereby authorized to enter into such agreements, and they and other appropriate employees of the City are hereby authorized to execute such certificates or other documents and take such other actions, as may be necessary or appropriate to carry out the intent of this resolution.

4. This Ordinance shall take effect from and after its adoption, the welfare of the City of Memphis requiring it.

Sponsor: _____