Introduced by the Council President at the request of the Mayor:

**ORDINANCE 2017-341**

APPROVING THE SETTLEMENT OF A DISPUTE BETWEEN THE CITY OF JACKSONVILLE AND EVELYN L. GREER WITH RESPECT TO THE GUARANTY OF A CERTAIN REDEVELOPMENT AGREEMENT DATED NOVEMBER 9, 2007 AND RELATED LOAN DOCUMENTS; APPROVING AND AUTHORIZING THE MAYOR, OR HIS DESIGNEE, AND CORPORATION SECRETARY TO EXECUTE A SETTLEMENT AGREEMENT; AUTHORIZING THE GENERAL COUNSEL, OR HIS DESIGNEE, TO TAKE FURTHER ACTION TO CONCLUDE THE LITIGATION; PROVIDING AN EFFECTIVE DATE.

**WHEREAS,** on November 9, 2007, City of Jacksonville (“COJ”) and Shoppes of Norfolk, LLC (“Shoppes”), entered into a Redevelopment Agreement (the “Redevelopment Agreement”) for the redevelopment of a shopping center by Shoppes on real property owned by Shoppes and located at 4750 Soutel Drive, Jacksonville, Florida 32208 (the “Property”) as authorized by Jacksonville Ord. 2007-255-E; and

**WHEREAS,** on or about November 23, 2007, COJ lent Shoppes $877,429.00 from the Northwest Jacksonville Economic Development Fund (“NWJEDF”) and Shoppes executed a Note in that amount, which was secured by a Mortgage on the Property. Collectively, the Redevelopment Agreement, Note and Mortgage are referred to herein as the “Loan Documents;” and

**WHEREAS,** in conjunction with the Loan Documents, Evelyn L. Greer (“Greer”) executed an Unconditional Guaranty on October 29, 2007, guaranteeing full performance and payment of the terms of the Loan Documents (the “Guaranty”); and

**WHEREAS,** the Loan Documents were also unconditionally guaranteed by K.Mack, LLC (“K.Mack”), and William J. Green (“Green”); and

**WHEREAS,** Shoppes ran into financial difficulties during the redevelopment project, which ultimately resulted in a foreclosure sale of the Property on August 3, 2012 and a breach of the Loan Documents; and

**WHEREAS,** COJ filed a lawsuit against Shoppes, Greer, K.Mack, LLC, and William J. Green, on July 2, 2015, styled *The City of Jacksonville v. Evelyn L. Greer, et al.*, in the Duval County Circuit Court, Case No. 2015-CA-4256 (the “Litigation”), claiming damages for breaches of the Loan Documents and Guaranties; and

**WHEREAS,** Greer has raised defenses to the City’s claims in the Litigation; and

**WHEREAS,** the parties, through their respective representatives, engaged in a formal mediation and have reached a potential settlement as to the City’s claims against Greer, subject to review and approval by the City Council pursuant to the requirements of Chapter 112, *Ordinance Code*; and

**WHEREAS,** it is anticipated that if this lawsuit does not settle, the parties will incur lengthy and expensive litigation and face uncertain outcomes, which the parties wish to avoid; and

**WHEREAS,** the Council finds that it is in the best interests of the City and the public that the dispute be resolved without resort to further litigation, costs and expenses; now therefore

**BE IT ORDAINED** by the Council of the City of Jacksonville:

**Section 1. Settlement Approval and Authorization.** The proposed Settlement and Release Agreement between the City of Jacksonville and Evelyn E. Greer attached hereto as **Exhibit 1** and incorporated herein (the “Agreement”) is hereby approved, and the Mayor, or his designee, and the Corporation Secretary are hereby authorized to execute the Agreement in substantially the form attached on behalf of the City.

**Section 2. Further Action Authorized.** The General Counsel, or his designee, is authorized to take such further action and to execute all other documents necessary to effect and enforce the approved settlement. Following completion of the payment as set forth in the Agreement, the General Counsel, or his designee, is authorized to file a notice of dismissal with prejudice of the Litigation as provided in the Agreement. Furthermore, upon receipt of the settlement payment of $438,714.50, the funds will be returned by the Mayor or his designee, or the appropriate Office of Economic Development employees, to the NWJEDF, Index Code JEJE75C, Subobject 36907, for subsequent appropriation in accordance with all necessary ordinances, rules, regulations, and procedures once projects have been identified.

**Section 3.** **Effective Date.** This Ordinance shall become effective upon signature by the Mayor or upon becoming effective without the Mayor’s signature.

Form approved:

\_\_/s/ Christopher M. Garrett

Office of General Counsel

Legislation Prepared By: Christopher M. Garrett

GC-#1123183-v1-COJ\_v\_Shoppes\_of\_Norfolk\_proposed\_ordinance\_approving\_settlement\_agreement.docx