Introduced by the Council President at the request of the Office General Counsel:

**ORDINANCE 2018-541**

AN ORDINANCE REGARDING THE REMEDIATION OF CONTAMINATION AT THE SITE OF A FORMER MANUFACTURED GAS PLANT OPERATED IN AND AROUND WHAT IS NOW CONFEDERATE PARK; RATIFYING AND APPROVING EXECUTION OF A SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS WITH SHOPPES AT LAKESIDE, INC., IN FURTHERANCE OF SUCH REMEDIATION; PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS,** over 100 years ago, there was a private manufactured gas plant (“MGP”) located and operating on private property adjacent and upgradient to real property presently owned by the City, now known as Confederate Park; and

**WHEREAS,** the City discoveredin the mid-1990s that, as a result of the operation of the former MGP, various hazardous substances and pollutants generated by the former MGP were deposited on and into soils, sediments, surface water and groundwater at and around Confederate Park and nearby adjacent properties; and

**WHEREAS**, in response to the discovery of the contamination, the City was and will be required to incur response costs for remediation under the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. sections 9601 et seq. (“CERCLA”), specifically including completion of remedial investigation to delineate environmental impacts from the release of the hazardous substances and pollutants from the former MGP and implementation of a remediation program to clean up the contamination; and

**WHEREAS**, due to the contamination and the need for remediation, the City instituted and there is now pending a lawsuit styled *City of Jacksonville, Plaintiff v. Shoppes at Lakeside, Inc.; Jacksonville Hospitality Holdings, L.P.; and Continental Holdings, Inc., Defendants;* Case No. 3:12-cv-850-J-25-MCR in The United States District Court for the Middle District of Florida, Jacksonville Division (the “Litigation”); and

**WHEREAS,** the Florida Department of Environmental Protection (“FDEP”) is the administrative agency of the State of Florida having the power and duty to protect Florida’s environment and to administer and enforce several environmental statutes and rules intended to address environmental contamination remediation issues, including those at the former MGP site and for Confederate Park and the impacted adjacent properties; and

**WHEREAS,** to address the contamination cleanup, the FDEP, the City, and the current owners of the adjacent properties – Jacksonville Hospitality Holdings, L. P. (“JHH”), and Shoppes of Lakeside, Inc. (“Shoppes”), as well as the private developer of the JHH property (the “Brownfield Parties”), entered into extensive and detailed negotiations resulting in a proposed Brownfield Site Rehabilitation Agreement (“BSRA”) pursuant to section 376.80(5), Florida Statutes; and

WHEREAS, as part of the MGP site remediation under the BSRA, as well as partial settlement of the Litigation, City and Shoppes have reached an agreement contingent upon ratification and approval of the City Council; now, therefore,

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

 **Section 1**. **Ratification and Approval of Execution of the Settlement Agreement and Release; Authorization to Implement**. There is hereby ratified and approved, and the Mayor, or his designee, is authorized to execute and implement, for and on behalf of the City, the Settlement Agreement and Release and its terms and conditions, in the form attached hereto as **Exhibit 1**, and to take, or cause to be taken, for and on behalf of the City, such further action as is necessary to effectuate the purposes of this Ordinance.

 **Section 2. Effective Date**. This Ordinance shall become effective upon signature by the Mayor or upon becoming effective without the Mayor’s signature.

Form Approved:

\_/s Jason R. Teal\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Office of General Counsel

Legislation prepared by: Jason R. Teal and Michael B. Wedner

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