



**PUBLIC SAFETY AND LEGAL  
ADMINISTRATION COMMITTEE  
DEPARTMENTAL OVERVIEW/BUDGET  
PRESENTATION**

**Councilmember Dustin R. Hillis - Chairman**  
**Councilmember J.P. Matzigkeit**  
**Councilmember Andrea L. Boone**  
**Councilmember Andre Dickens**  
**Councilmember Marci Collier Overstreet**  
**Councilmember Howard Shook**  
**Councilmember Antonio Brown**

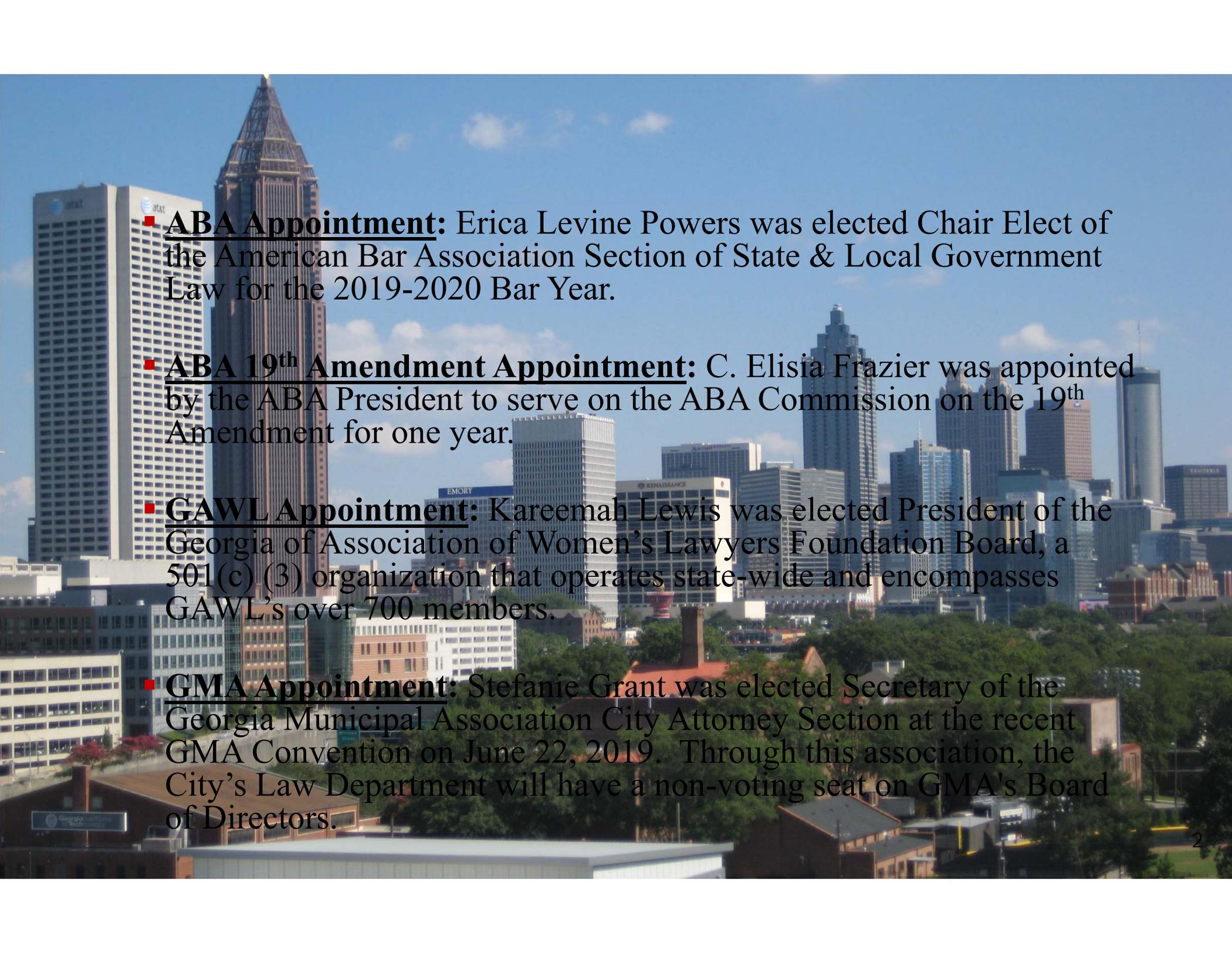
**QUARTERLY OVERVIEW**  
**September 24, 2019**

**Department of Law**  
**City Attorney Nina R. Hickson**



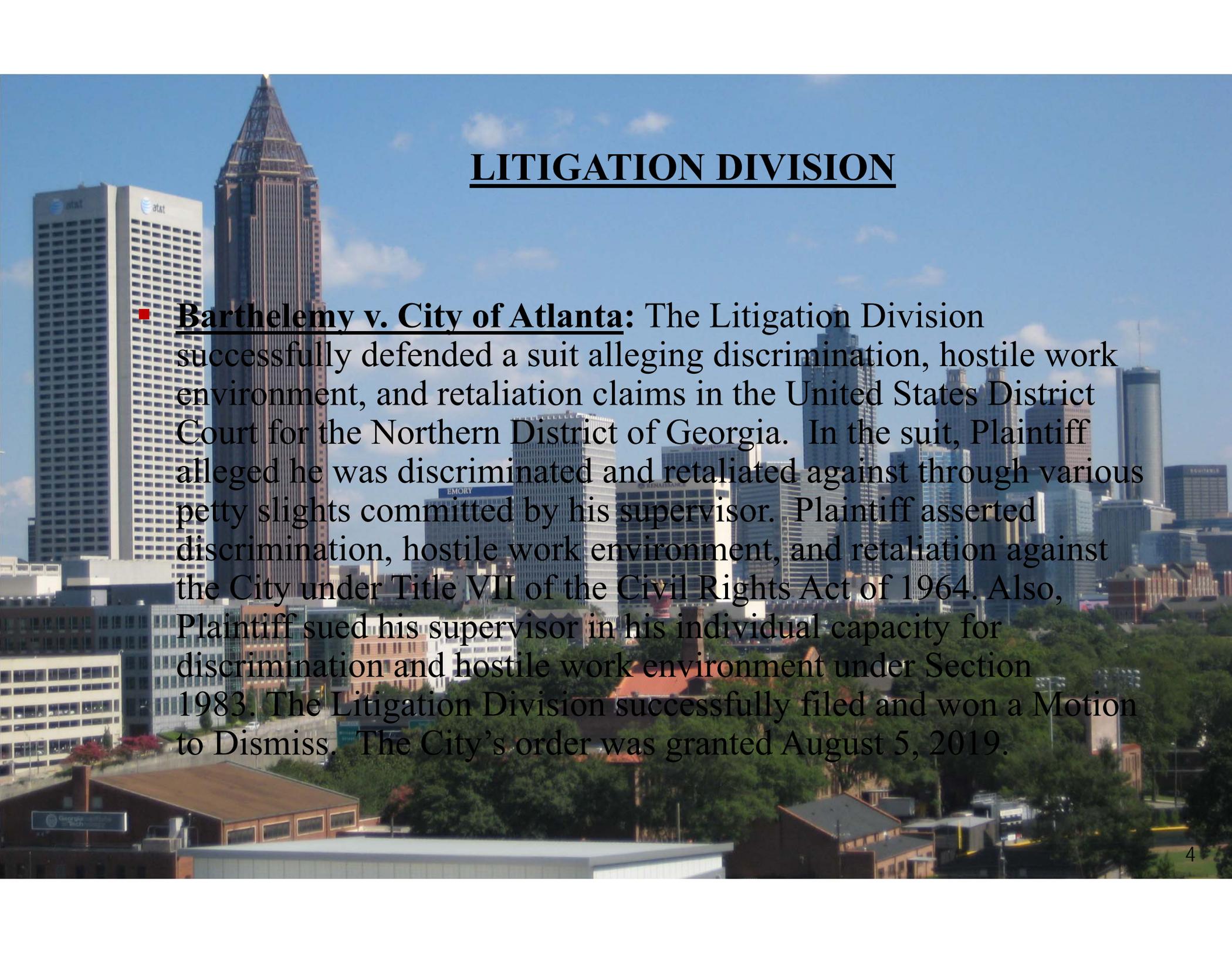
## **Update on Claims and Settlements since last report provided to the Public Safety and Legal Administration Committee on June 25, 2019**

- Law Staff Accomplishments
- Highlights & Major Matters across Divisions
- Division Accomplishments
- Total Claims and Settlement Payments
  - Quarterly Update
  - Calendar Year-To-Date Snapshot
- Outside Counsel Report
  - Number of Outsourced Matters
  - Spending to Date
- Revenue Recovery

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- **ABA Appointment:** Erica Levine Powers was elected Chair Elect of the American Bar Association Section of State & Local Government Law for the 2019-2020 Bar Year.
  - **ABA 19<sup>th</sup> Amendment Appointment:** C. Elisia Frazier was appointed by the ABA President to serve on the ABA Commission on the 19<sup>th</sup> Amendment for one year.
  - **GAWL Appointment:** Kareemah Lewis was elected President of the Georgia of Association of Women's Lawyers Foundation Board, a 501(c) (3) organization that operates state-wide and encompasses GAWL's over 700 members.
  - **GMA Appointment:** Stefanie Grant was elected Secretary of the Georgia Municipal Association City Attorney Section at the recent GMA Convention on June 22, 2019. Through this association, the City's Law Department will have a non-voting seat on GMA's Board of Directors.

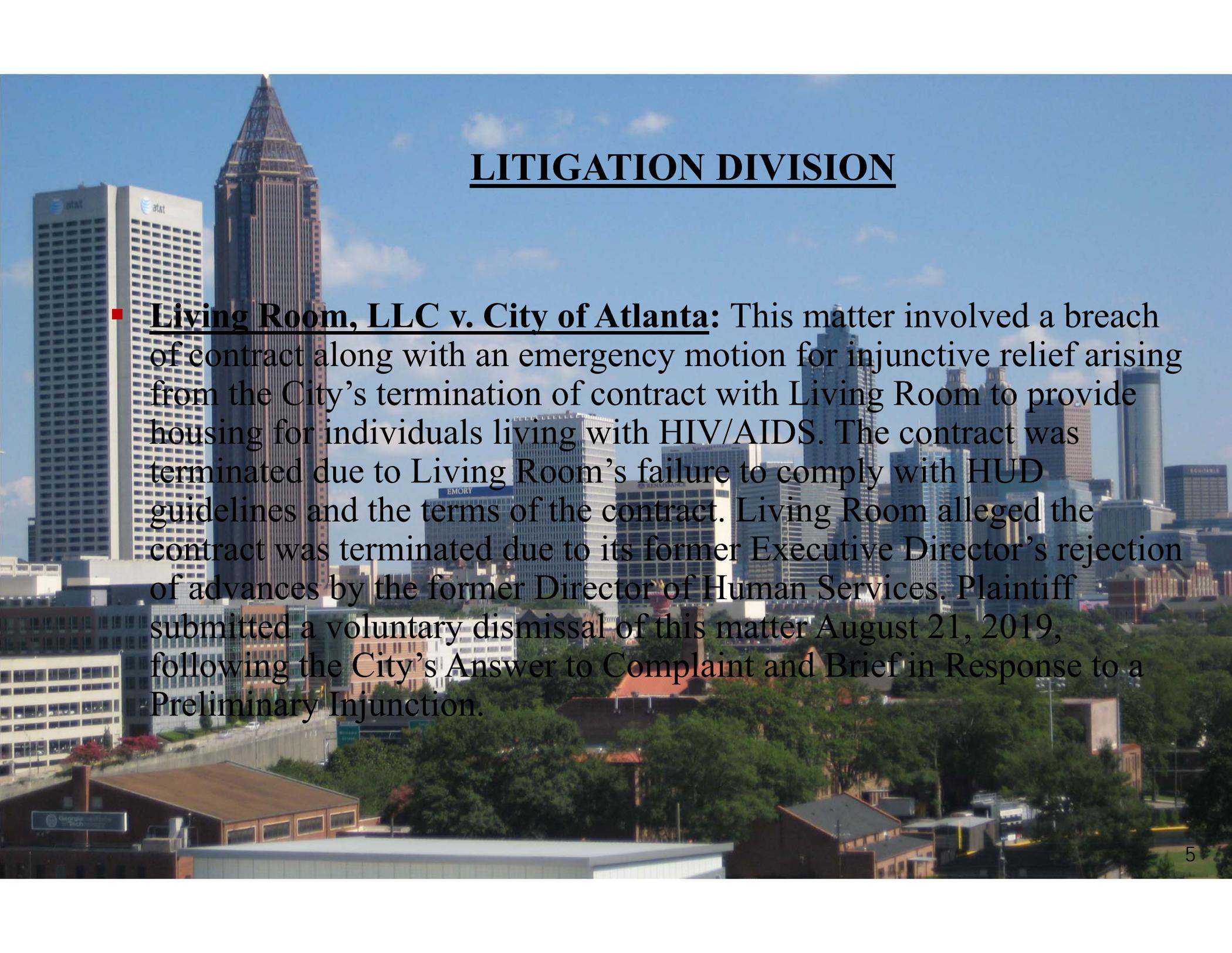
An aerial photograph of the Atlanta skyline, featuring several prominent skyscrapers. The AT&T building is on the left, and the Georgia State Capitol is the tallest building in the center. Other buildings include the Emory building and the Renaissance building. The foreground shows a mix of green trees and lower-rise buildings. The text "LITIGATION DIVISION" is overlaid in a large, black, serif font across the middle of the image.

# LITIGATION DIVISION

A panoramic view of the Atlanta skyline under a clear blue sky. The Georgia State Capitol building is the central focus, with other skyscrapers like the AT&T building and the SunTrust building visible. The foreground shows some lower-rise buildings and greenery.

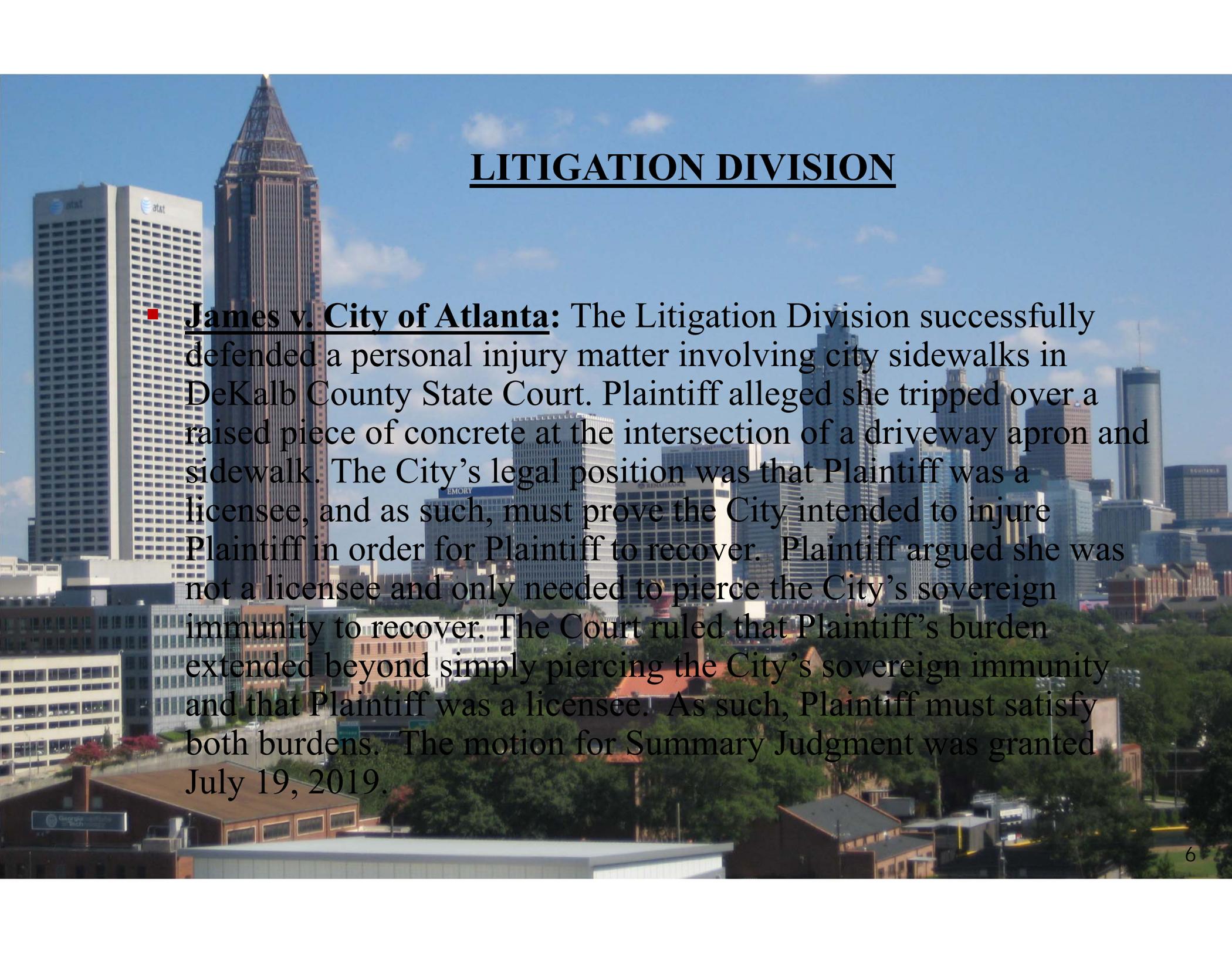
## LITIGATION DIVISION

- **Barthelemy v. City of Atlanta**: The Litigation Division successfully defended a suit alleging discrimination, hostile work environment, and retaliation claims in the United States District Court for the Northern District of Georgia. In the suit, Plaintiff alleged he was discriminated and retaliated against through various petty slights committed by his supervisor. Plaintiff asserted discrimination, hostile work environment, and retaliation against the City under Title VII of the Civil Rights Act of 1964. Also, Plaintiff sued his supervisor in his individual capacity for discrimination and hostile work environment under Section 1983. The Litigation Division successfully filed and won a Motion to Dismiss. The City's order was granted August 5, 2019.

An aerial photograph of the Atlanta skyline, featuring several prominent skyscrapers. The most prominent is the Georgia State Capitol building with its distinctive pyramid-shaped top. To its left is a tall, white skyscraper with 'at&t' logos. Other buildings in the background include the Emory University building and the SunTrust Building. The sky is blue with some light clouds. The text 'LITIGATION DIVISION' is centered in the upper half of the image, and a large paragraph of text is overlaid on the lower half.

## LITIGATION DIVISION

- **Living Room, LLC v. City of Atlanta**: This matter involved a breach of contract along with an emergency motion for injunctive relief arising from the City's termination of contract with Living Room to provide housing for individuals living with HIV/AIDS. The contract was terminated due to Living Room's failure to comply with HUD guidelines and the terms of the contract. Living Room alleged the contract was terminated due to its former Executive Director's rejection of advances by the former Director of Human Services. Plaintiff submitted a voluntary dismissal of this matter August 21, 2019, following the City's Answer to Complaint and Brief in Response to a Preliminary Injunction.

A panoramic view of the Atlanta skyline under a clear blue sky with light clouds. The Georgia State Capitol building is prominent on the left, with its distinctive pyramidal roof. To its right are several modern skyscrapers, including the AT&T building. The foreground shows a mix of urban buildings and greenery.

## LITIGATION DIVISION

- **James v. City of Atlanta**: The Litigation Division successfully defended a personal injury matter involving city sidewalks in DeKalb County State Court. Plaintiff alleged she tripped over a raised piece of concrete at the intersection of a driveway apron and sidewalk. The City's legal position was that Plaintiff was a licensee, and as such, must prove the City intended to injure Plaintiff in order for Plaintiff to recover. Plaintiff argued she was not a licensee and only needed to pierce the City's sovereign immunity to recover. The Court ruled that Plaintiff's burden extended beyond simply piercing the City's sovereign immunity and that Plaintiff was a licensee. As such, Plaintiff must satisfy both burdens. The motion for Summary Judgment was granted July 19, 2019.

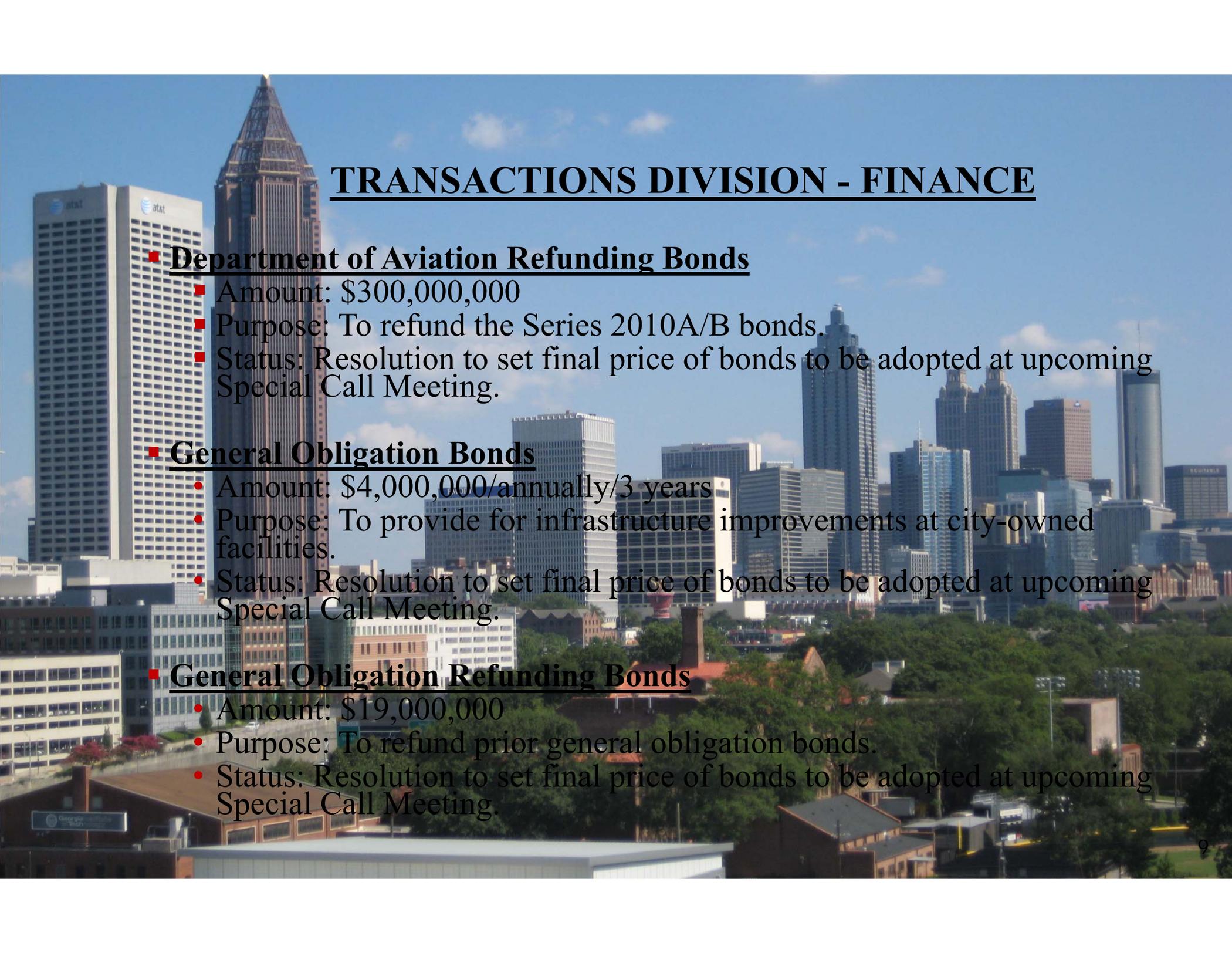
An aerial photograph of the Atlanta skyline, featuring several prominent skyscrapers. The Bank of America Tower is the most prominent building on the left. The text 'LITIGATION DIVISION' is centered in the upper half of the image. A large block of text is overlaid on the lower half of the image, starting with a red square bullet point. The background shows a mix of modern glass skyscrapers and older brick buildings, with green trees in the foreground.

## LITIGATION DIVISION

- Collier v. City of Atlanta et al.: Plaintiff alleged the Atlanta Police Department assisted in the wrongful eviction of Plaintiff. The Litigation Division filed a Motion to Dismiss based upon Plaintiff's failure to comply with pleading standards, Plaintiff's failure to provide the requisite ante litem notice, the doctrine of sovereign immunity, and res judicata/ collateral estoppel. The City's motion to dismiss was granted July 1, 2019.

An aerial photograph of the Atlanta skyline, featuring several prominent skyscrapers. On the left, there are two AT&T buildings. The central focus is the Georgia State Capitol building, a tall, brown, Gothic-style structure with a pointed top. To its right, there are several modern glass skyscrapers, including the Renaissance building. The foreground shows a mix of lower-rise buildings, trees, and a road with a sign that reads "Georgia State University". The sky is blue with scattered white clouds.

# TRANSACTIONS DIVISION

An aerial photograph of the Atlanta skyline, featuring several prominent skyscrapers under a clear blue sky with light clouds. The text is overlaid on the right side of the image.

## **TRANSACTIONS DIVISION - FINANCE**

### ■ **Department of Aviation Refunding Bonds**

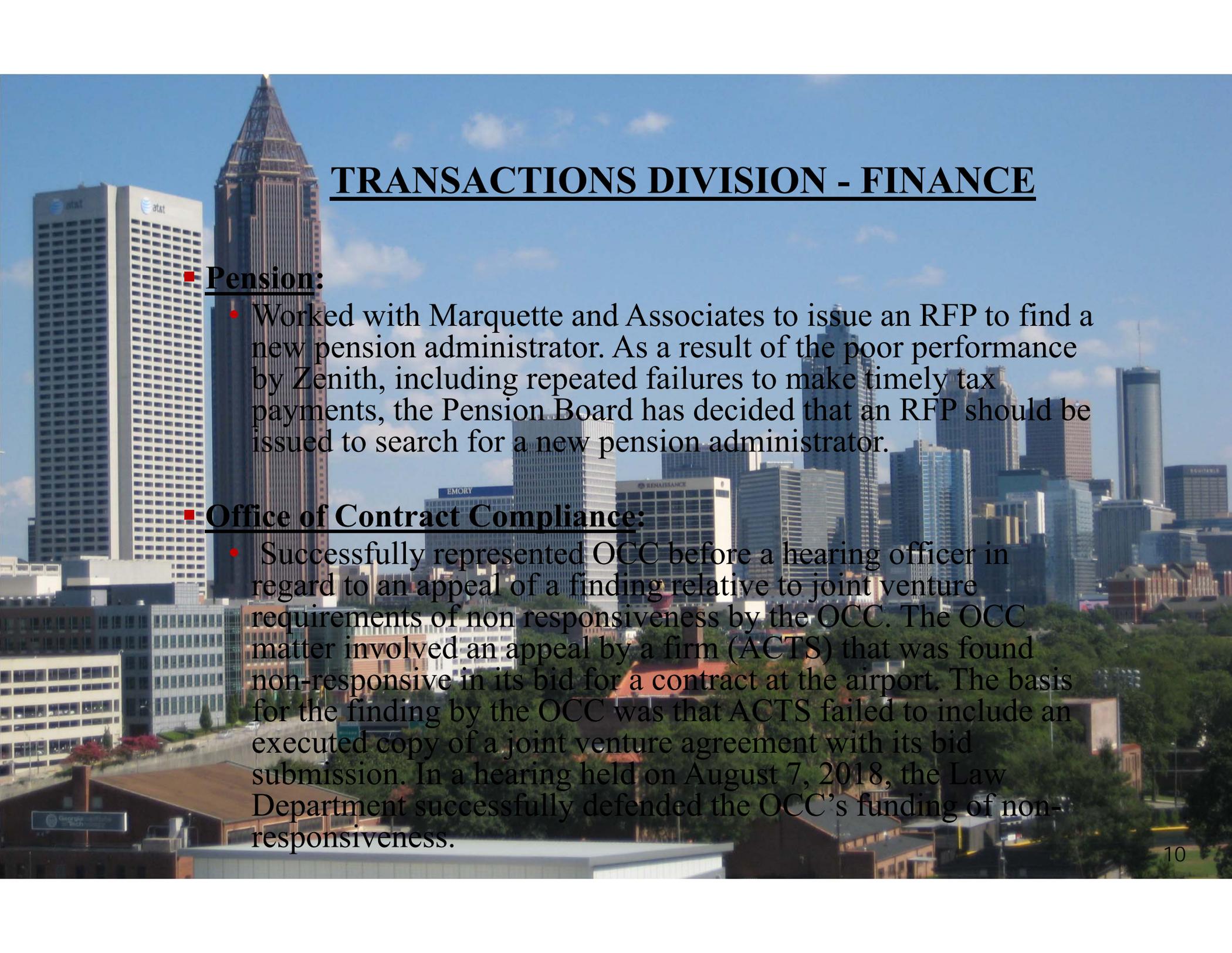
- Amount: \$300,000,000
- Purpose: To refund the Series 2010A/B bonds.
- Status: Resolution to set final price of bonds to be adopted at upcoming Special Call Meeting.

### ■ **General Obligation Bonds**

- Amount: \$4,000,000/annually/3 years
- Purpose: To provide for infrastructure improvements at city-owned facilities.
- Status: Resolution to set final price of bonds to be adopted at upcoming Special Call Meeting.

### ■ **General Obligation Refunding Bonds**

- Amount: \$19,000,000
- Purpose: To refund prior general obligation bonds.
- Status: Resolution to set final price of bonds to be adopted at upcoming Special Call Meeting.



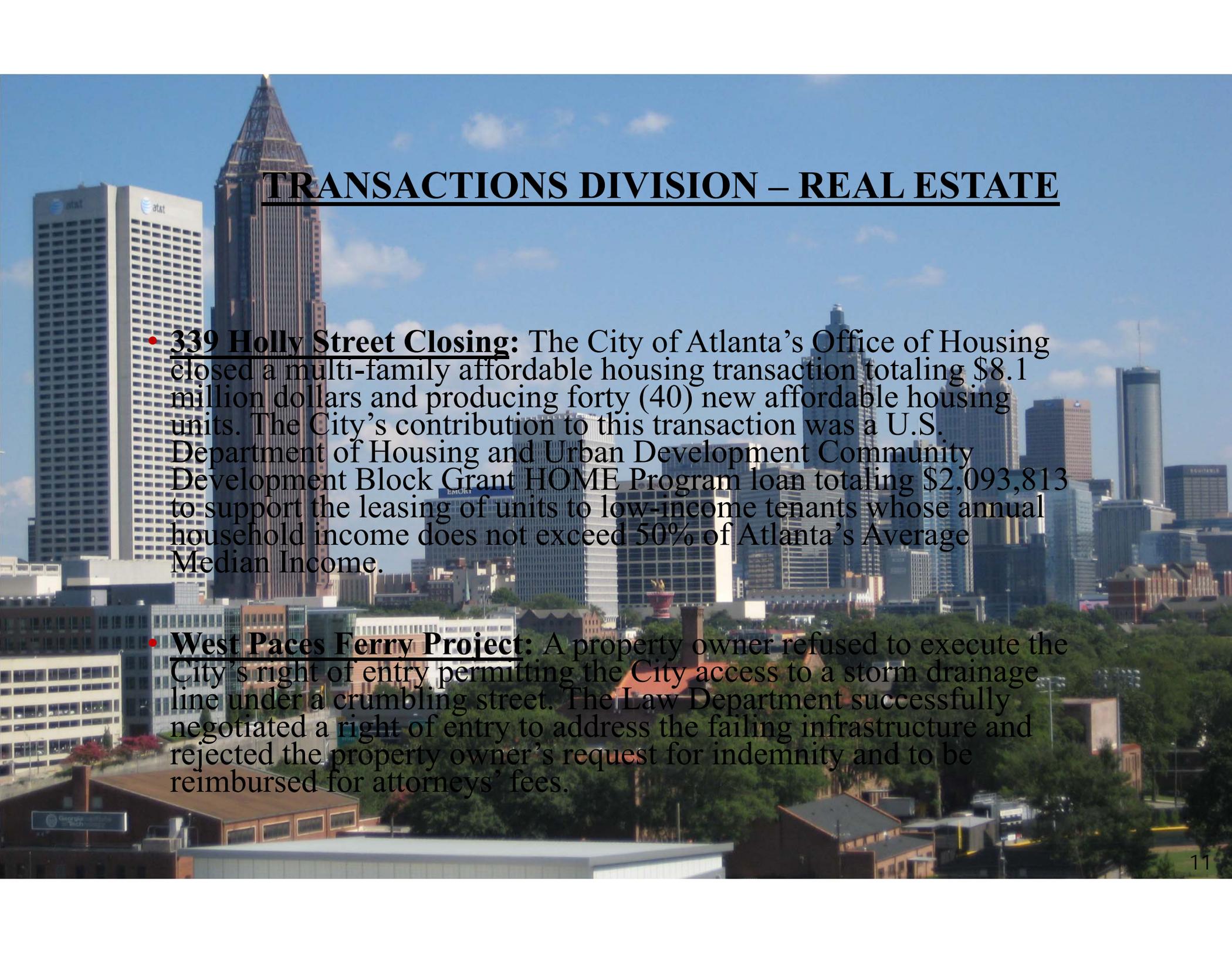
## TRANSACTIONS DIVISION - FINANCE

### ■ Pension:

- Worked with Marquette and Associates to issue an RFP to find a new pension administrator. As a result of the poor performance by Zenith, including repeated failures to make timely tax payments, the Pension Board has decided that an RFP should be issued to search for a new pension administrator.

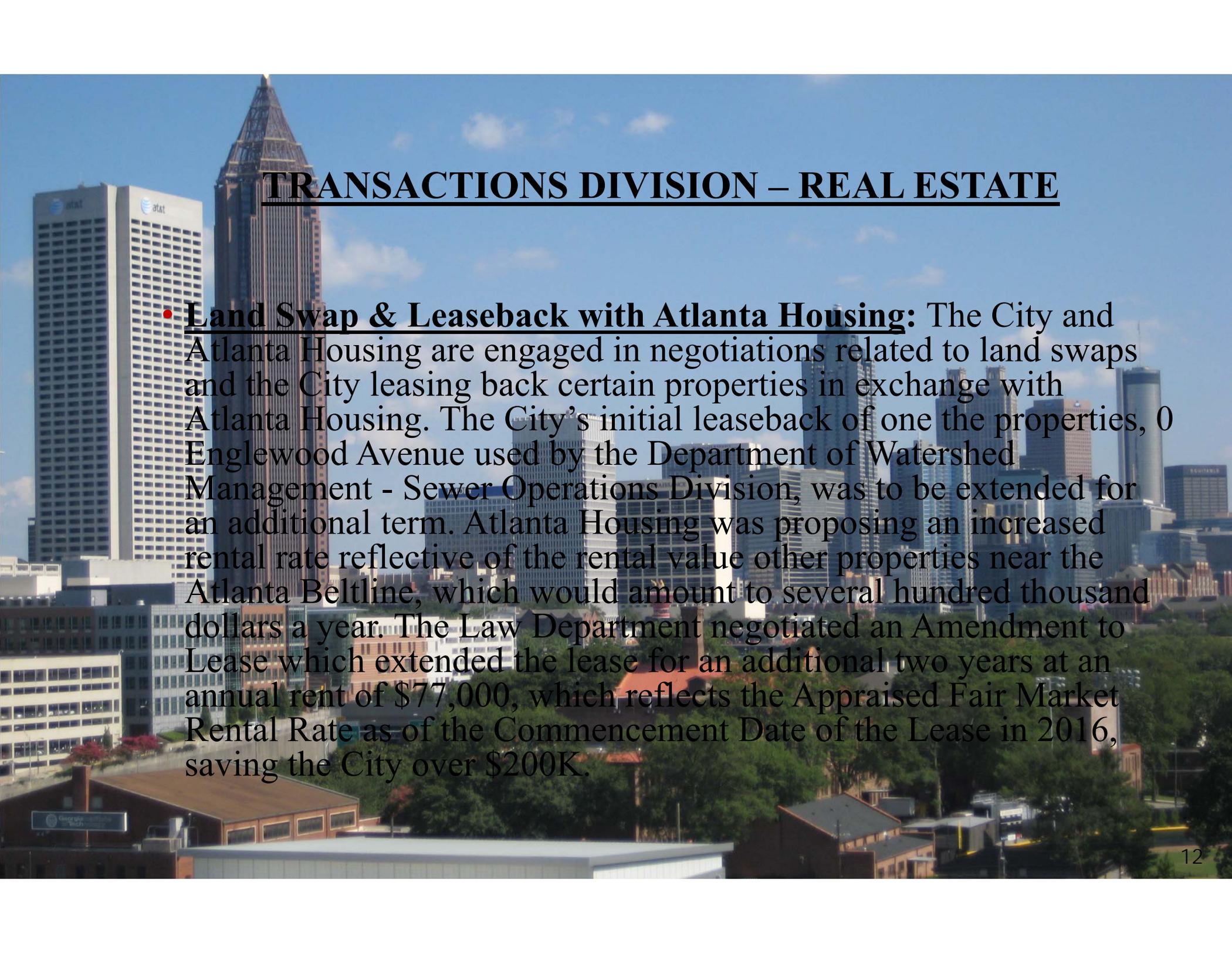
### ■ Office of Contract Compliance:

- Successfully represented OCC before a hearing officer in regard to an appeal of a finding relative to joint venture requirements of non responsiveness by the OCC. The OCC matter involved an appeal by a firm (ACTS) that was found non-responsive in its bid for a contract at the airport. The basis for the finding by the OCC was that ACTS failed to include an executed copy of a joint venture agreement with its bid submission. In a hearing held on August 7, 2018, the Law Department successfully defended the OCC's finding of non-responsiveness.

A panoramic view of the Atlanta skyline under a clear blue sky with light clouds. The Georgia State Capitol building is prominent in the center-left, with its distinctive dome. To its left is a tall AT&T building. Other skyscrapers of varying heights and architectural styles are scattered across the background. In the foreground, there are lower-rise buildings, some with flat roofs, and green trees. The overall scene is bright and clear.

## TRANSACTIONS DIVISION – REAL ESTATE

- **339 Holly Street Closing:** The City of Atlanta's Office of Housing closed a multi-family affordable housing transaction totaling \$8.1 million dollars and producing forty (40) new affordable housing units. The City's contribution to this transaction was a U.S. Department of Housing and Urban Development Community Development Block Grant HOME Program loan totaling \$2,093,813 to support the leasing of units to low-income tenants whose annual household income does not exceed 50% of Atlanta's Average Median Income.
- **West Paces Ferry Project:** A property owner refused to execute the City's right of entry permitting the City access to a storm drainage line under a crumbling street. The Law Department successfully negotiated a right of entry to address the failing infrastructure and rejected the property owner's request for indemnity and to be reimbursed for attorneys' fees.

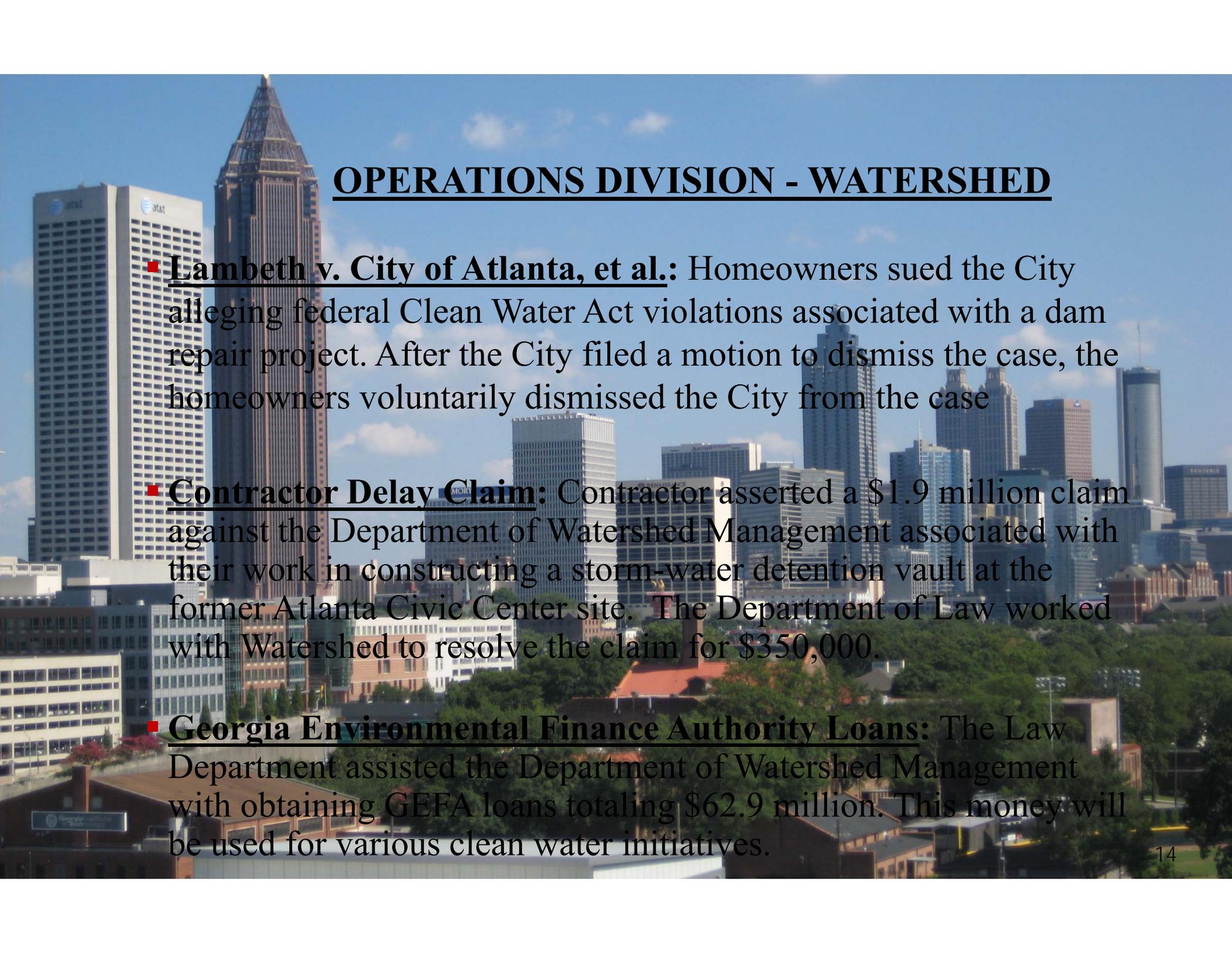
The background of the slide is a photograph of the Atlanta skyline. The most prominent building is the Georgia State Capitol, a tall, slender tower with a pointed top. To its left is a large, modern office building with 'at&t' logos. Other skyscrapers and buildings are visible in the distance under a clear blue sky with some light clouds. The foreground shows some lower-rise buildings and greenery.

## TRANSACTIONS DIVISION – REAL ESTATE

- **Land Swap & Leaseback with Atlanta Housing:** The City and Atlanta Housing are engaged in negotiations related to land swaps and the City leasing back certain properties in exchange with Atlanta Housing. The City's initial leaseback of one of the properties, 0 Englewood Avenue used by the Department of Watershed Management - Sewer Operations Division, was to be extended for an additional term. Atlanta Housing was proposing an increased rental rate reflective of the rental value of other properties near the Atlanta Beltline, which would amount to several hundred thousand dollars a year. The Law Department negotiated an Amendment to Lease which extended the lease for an additional two years at an annual rent of \$77,000, which reflects the Appraised Fair Market Rental Rate as of the Commencement Date of the Lease in 2016, saving the City over \$200K.

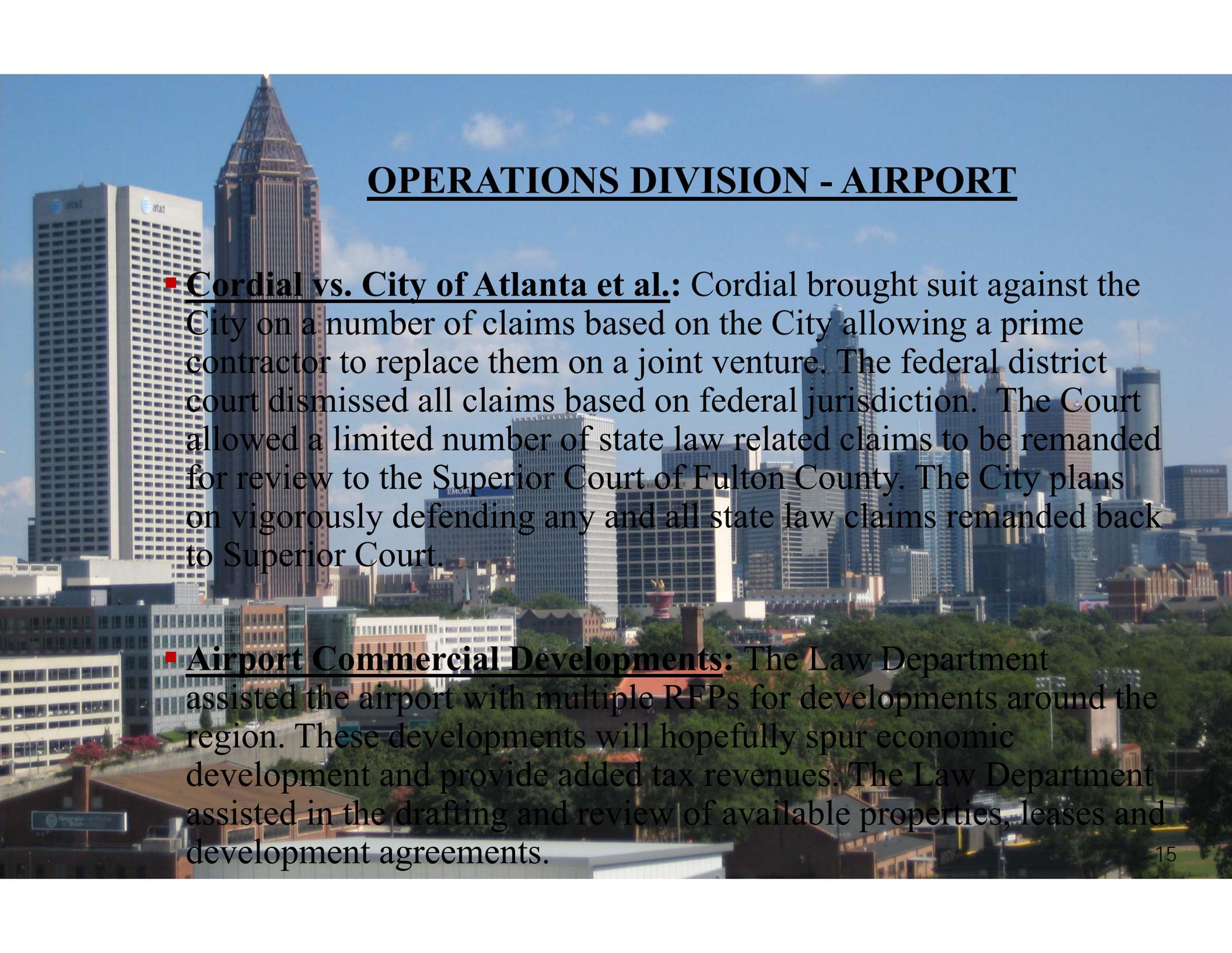
An aerial photograph of the Atlanta skyline under a clear blue sky with scattered white clouds. The image features several prominent skyscrapers, including the AT&T building on the left and the Georgia State Capitol building in the center. In the foreground, there are green trees and lower-rise buildings. The text "OPERATIONS DIVISION" is overlaid in a large, black, serif font across the middle of the image.

# OPERATIONS DIVISION

The background of the slide is a photograph of the Atlanta skyline, featuring several prominent skyscrapers under a clear blue sky with light clouds. The buildings are in various shades of grey, blue, and white. The text is overlaid on this image.

## OPERATIONS DIVISION - WATERSHED

- **Lambeth v. City of Atlanta, et al.:** Homeowners sued the City alleging federal Clean Water Act violations associated with a dam repair project. After the City filed a motion to dismiss the case, the homeowners voluntarily dismissed the City from the case
- **Contractor Delay Claim:** Contractor asserted a \$1.9 million claim against the Department of Watershed Management associated with their work in constructing a storm-water detention vault at the former Atlanta Civic Center site. The Department of Law worked with Watershed to resolve the claim for \$350,000.
- **Georgia Environmental Finance Authority Loans:** The Law Department assisted the Department of Watershed Management with obtaining GEFA loans totaling \$62.9 million. This money will be used for various clean water initiatives.

A panoramic view of the Atlanta skyline under a clear blue sky. The Georgia State Capitol building is prominent on the left, with its distinctive dome. To its right are several modern skyscrapers, including the AT&T building. The foreground shows a mix of urban buildings and greenery.

## OPERATIONS DIVISION - AIRPORT

- **Cordial vs. City of Atlanta et al.:** Cordial brought suit against the City on a number of claims based on the City allowing a prime contractor to replace them on a joint venture. The federal district court dismissed all claims based on federal jurisdiction. The Court allowed a limited number of state law related claims to be remanded for review to the Superior Court of Fulton County. The City plans on vigorously defending any and all state law claims remanded back to Superior Court.
- **Airport Commercial Developments:** The Law Department assisted the airport with multiple RFPs for developments around the region. These developments will hopefully spur economic development and provide added tax revenues. The Law Department assisted in the drafting and review of available properties, leases and development agreements.



# UPDATE ON CLAIMS & SETTLEMENTS

An aerial photograph of the Atlanta skyline, featuring several prominent skyscrapers. The text is overlaid on the image. The background shows a clear blue sky with some light clouds. The buildings are mostly modern, with glass facades. The text is in a bold, black, sans-serif font.

## UPDATE ON CLAIMS & SETTLEMENTS

### ❖ Total Claims and Settlement Payments

- There was a 23% decrease in pending claims from (1225) in April 2019 to (932) in July 2019.
  - The Department of Law has received 478 new claims between May 1, 2019 and August 31, 2019, an average of 120 new claims per month. Overall, Law Staff has closed 708 claims during the course of a four month span, an average of 177 closed claims per month.
- The Law Department successfully and effectively litigated and negotiated claims and cases that resulted in the City only paying \$2.8 million when the financial exposure was over \$22 million.

# UPDATE ON CLAIMS & SETTLEMENTS

## FY19 Q4

### ❖ Itemized Claims and Settlement Payments by Department

<b>FY19 (Q4) Litigation Cases Settlement Totals</b>		
<b>Department</b>	<b>Payments</b>	<b>Fund Impact</b>
City Planning	125,000	General Fund
Corrections	995,000	General Fund
Fire Rescue	60,000	General Fund
Parks & Recreation	250,000	General Fund
Police	74,250	General Fund
Public Works	550,000	General Fund
Watershed Management	-	General Fund
Watershed Management	513,700	Water & Sewer
<b>TOTAL LITIGATION SETTLEMENTS</b>	<b>2,567,950</b>	
<b>FY19 (Q4) CLAIM SETTLEMENT TOTALS</b>		
<b>Department</b>	<b>Payments</b>	<b>Fund Impact</b>
Fire Rescue	1,615	General Fund
Police	109,083	General Fund
Public Works	47,461	General Fund
Watershed Management	103,252	Water & Sewer
<b>TOTAL CLAIM SETTLEMENTS</b>	<b>261,412</b>	
<b>TOTAL CYTD LITIGATION &amp; CLAIM TOTALS</b>	<b>\$2,829,362</b>	

# UPDATE ON CLAIMS & SETTLEMENTS FY19 Q1-Q4

## ❖ Itemized Claims and Settlement Payments by Department

<b>FY19 Litigation Cases Settlement Totals</b>		
<b>Department</b>	<b>Payments</b>	<b>Fund Impact</b>
City Planning	130,194	General Fund
Corrections	1,120,000	General Fund
Fire Rescue	1,400,000	General Fund
Mayor's Office	100,000	General Fund
Parks & Recreation	307,000	General Fund
Police	873,000	General Fund
Public Works	1,158,000	General Fund
Watershed Management	65,500	General Fund
Watershed Management	1,035,500	Water & Sewer
<b>TOTAL LITIGATION SETTLEMENTS</b>	<b>6,189,194</b>	
<b>FY19 Claim Settlements Totals</b>		
<b>Department</b>	<b>Payments</b>	<b>Fund Impact</b>
Aviation	6,635	Aviation
City Planning	3,071	General Fund
Corrections	4,498	General Fund
Fire Rescue	9,935	General Fund
Parks & Recreation	23,018	General Fund
Police	448,516	General Fund
Public Works	138,020	General Fund
Watershed Management	559,482	Water & Sewer
<b>TOTAL CLAIM SETTLEMENTS</b>	<b>1,193,175</b>	
<b>TOTAL FYTD LITIGATION &amp; CLAIM TOTALS</b>	<b>\$7,382,369</b>	

# OUTSIDE COUNSEL SPENDING REPORT FISCAL-YEAR-TO-DATE

	FY19 <u>July-Sept. 2019</u>	FY20 <u>July-Sept. 2018</u>	<u>%Chg.</u>
■ NUMBER OF OUTSOURCED MATTERS	74	56	-24%
<u>SPENDING TO DATE</u>			
■ AVIATION FUND	11,798	10,538	-10%
■ WATERSHED FUND	292,971	193,571	-34%
■ GENERAL FUND	147,374	68,189	-53%
■ TOTAL SPENDING COMBINED FUNDS <sup>1</sup>	\$452,143	\$272,298	-39%

<sup>1</sup>Total Spending Combined Funds excludes DOJ Investigation expenses.

- Decrease in outside counsel spending compared to FY19 July – September 2019 is due to the timing of invoice receipts for annexation & real-estate matters, Watershed condemnation matters and one-time expense occurrences in FY19 (i.e. cyber incident response & coordination and investigative matters).
- FY20 Spending on DOJ Investigation: \$564,781 from July 2019 – September 2019. This amount represents both paid and unpaid invoices.
- Total Spending on DOJ Investigation: \$20.8M from January 2017 – June 2019. This amount represents both paid and unpaid invoices.

## REVENUE RECOVERY FY20 Q1

- The Law Department has assisted the Office of Revenue in recovering approximately \$50,000 in occupation tax owed to the City. The Occupation Tax was recovered as a result of negotiations involving the Law Department, the Office of Revenue and customers to reach a mutual agreement on the amount of taxes owed. In most instances when the customer had been cited for failure to pay taxes, the parties were able to successfully conclude negotiations before the case reached Municipal Court, thereby avoiding the involvement of the Solicitor's Office.



# QUESTIONS