

COMMONWEALTH OF MASSACHUSETTS

WORCESTER, ss.

SUPERIOR COURT
C.A. NO. 1785CV02005B

JANICE MAGLIACANE, on behalf of herself
and others similarly situated,

Plaintiff,

v.

CITY OF GARDNER,

Defendant/Third Party
Plaintiff,

v.

SUEZ WATER ENVIRONMENTAL
SERVICES, INC. (formerly known as
United Water Environmental Services, Inc.),

Third Party Defendant.

STIPULATION AND AGREEMENT OF SETTLEMENT

I. PREAMBLE

WHEREAS, on December 13, 2017, Plaintiff Janice Magliacane (“Plaintiff”) filed a class action complaint against the City of Gardner (the “City”), and its private water system operators, SUEZ Water Environmental Services, Inc. (“SUEZ”) and its predecessor AECOM Technical Services, Inc. (“AECOM”), asserting, *inter alia*, claims for negligence, gross negligence and

nuisance relating to their supply of water to Gardner residents, property owners and businesses, which Plaintiff alleged caused copper heating coils in tankless hot water heating systems in Gardner to fail;

WHEREAS, on June 27, 2018, the Court dismissed the claims against the City;

WHEREAS, on July 18, 2018, Plaintiff appealed the dismissal of her claims against the City;

WHEREAS, on August 14, 2018, the Court dismissed the claims against AECOM, but sustained negligence, gross negligence, nuisance and G.L. c. 93A claims against SUEZ;

WHEREAS, on April 29, 2019, Plaintiff and SUEZ stipulated to the dismissal of Plaintiff's individual claims against SUEZ, and the stipulation expressly provided that it "would in no way affect[], impact[] or preclude[] Plaintiff's claims against Defendant City of Gardner" which were then pending on appeal;

WHEREAS, on January 22, 2020, the SJC, on direct appellate review, reversed and remanded the Court's dismissal of Plaintiff's claims against the City. *Magliacane v. City of Gardner*, 483 Mass. 842 (2020);

WHEREAS, on February 28, 2020, Plaintiff filed an amended complaint against the City, continuing to assert claims for negligence, gross negligence and nuisance;

WHEREAS, on May 6, 2020, the City answered the amended complaint, denying Plaintiff's allegations, and asserted third-party claims of breach of contract, indemnity and contribution against SUEZ;

WHEREAS, on July 22, 2020, SUEZ answered the City's third-party complaint, denying the City's allegations;

WHEREAS, on June 8, 2022, the City and SUEZ moved to preclude class certification;

WHEREAS, on July 15, 2022, Plaintiff opposed the motion to preclude class certification and cross-moved for class certification;

WHEREAS, on December 28, 2022, the Court denied the motion to preclude class certification, granted the motion for class certification and certified the Class;

WHEREAS, the Parties engaged in a full-day mediation session with Attorney John Ryan in an attempt to resolve their dispute, and the Parties had additional settlement negotiations through Attorney Ryan following the mediation;

WHEREAS, the Parties' mediation efforts resulted in Settlement, the terms of which are memorialized in this Settlement Agreement;

WHEREAS, Plaintiff and her counsel believe that the Settlement reflected in this Settlement Agreement is fair, reasonable, adequate and in the best interest of the Class; and

WHEREAS, the City and SUEZ, without admitting any liability, have concluded that it is desirable that the claims against them be settled and dismissed on the terms reflected in this Settlement Agreement;

NOW THEREFORE, it is hereby stipulated and agreed by and between Plaintiff, the City and SUEZ, that in consideration of the agreements, promises and covenants set forth herein, and subject to the approval of the Court pursuant to Massachusetts Rule of Civil Procedure 23, this Action shall be fully and finally resolved on the following terms and conditions:

II. DEFINITIONS

1. As used in this Settlement Agreement and the related documents attached hereto as Exhibits, the following terms shall have the meanings set forth below:

- a. "Action" means the civil action entitled *Magliacane v. City of Gardner et al.*, C.A. NO. 1785CV02005B (Mass. Super. Ct.).

- b. “Administration Account” means the account into which the City and SUEZ will pay the Settlement Amount and upon funding will be used for the purposes of (i) paying the Notice and Distribution Costs, including the payment of any necessary taxes and expenses incurred in connection with the maintenance of the Administration Account; (ii) distributing the Net Settlement Amount to Class Members; and (iii) distributing any Court-approved Fee Award and/or Service Award.
- c. “City” means the Defendant, the City of Gardner, Massachusetts.
- d. “Claim Form” means the claim form attached hereto as Exhibit A.
- e. “Class” or “Class Members” means all Gardner residents, property owners and businesses who were supplied water by the City and whose copper heating coils in their tankless hot water heating systems failed and had to be replaced.
- f. “Class Counsel” or “Plaintiff’s Counsel” means the law firm Shapiro Haber & Urmy LLP.
- g. “Coil” or “Coils” refers to a copper heating coil, or coils, in the tankless hot water heating systems of Gardner residents, property owners and businesses.
- h. “Court” means the Superior Court of the Commonwealth of Massachusetts for Worcester County.
- i. “Defense Counsel” means counsel for the City of Gardner, the law firm of Pierce, Davis & Perritano, LLP, and counsel for SUEZ, the law firm of Campbell, Conroy and O’Neil P.C.

- j. “Effective Date” means the date on which the Final Order and Judgment becomes Final.
- k. “Fee Application” means the application to the Court by Class Counsel for an award of attorneys’ fees and expenses.
- l. “Fee Award” means the amount awarded by the Court to Class Counsel for attorneys’ fees and expenses, to be paid from the Settlement Fund as detailed below.
- m. “Final” with respect to a judgment or order means the judgment or order as entered on the docket by the Court in this Action, which has not been reversed, stayed, modified, or amended, and as to which (1) the time to appeal under the Massachusetts Rules of Civil Procedure has expired and no appeal, further appeal or motion to extend the time for filing an appeal has been timely filed, or (2) any appeal has been resolved by the highest court to which it was appealed upholding or affirming the judgment.
- n. “Final Approval Hearing” means the hearing at which the Court shall: (1) determine whether to grant final approval to this Settlement Agreement; (2) consider any timely objections to this Settlement Agreement and all responses to objections by the Parties; and (3) rule on the Fee Application and proposed Service Award.
- o. “Final Order and Judgment” means the Final Order and Judgment substantially in the form attached hereto as Exhibit B, in which the Court grants final approval of this Agreement and authorizes the entry of a final judgment and dismissal of the Action.

- a. The “Net Settlement Amount” means the amount to be paid from the Settlement Amount to the Class after deduction for the Notice and Distribution Costs, the Fee Award and the Service Award, as detailed below.
- p. “Notice” means the notice of class action settlement attached hereto as Exhibit C.
- q. “Notice and Distribution Costs” mean all costs incurred from giving Notice to the Class and distributing the Net Settlement Amount to the Class.
- r. “Plaintiff” means Plaintiff Janice Magliacane.
- s. “Parties” means Plaintiff, individually and as representative of the Class, the Defendant City of Gardner and Third-Party Defendant SUEZ.
- t. “Party” means either Plaintiff, individually and as representative of the Class, the Defendant City of Gardner or Third-Party Defendant SUEZ.
- u. “Preliminary Approval Order” means the order, substantially in the form of Exhibit D hereto, in which the Court grants its preliminary approval of this Agreement and authorizes dissemination of Notice to the Class.
- v. “Released Claims” means and is limited to any claims asserted, or which could have been asserted, in the Action by Plaintiff, including but not limited to claims for negligence, gross negligence or nuisance relating to the supply of water to Gardner residents, property owners and businesses, which Plaintiff alleges caused their Coils to fail, or by the City against SUEZ, including for breach of contract, indemnity and contribution relating to the foregoing. Released Claims do not include any other claim by Plaintiff or any member of the Class against the City, or any other claim by the City against SUEZ.

- w. “Released Parties” means the City, SUEZ, and each of their present, former, or future subsidiaries, parents, affiliates, successors, predecessors, insurers, insurance administrators, claims administrators, officers, directors, employees, elected officials, appointed officials, representatives, agents, or principals.
- x. “Releasing Parties” means Plaintiff, each Class Member and, with respect to its third-party claims against SUEZ, the City.
- y. “Service Award” means a service award of up to \$15,000 to be paid out of the Settlement Amount to Plaintiff, as may be approved by the Court.
- z. “Settlement Administrator” means the settlement administrator selected by Class Counsel to provide Notice to the Class and distribute the Net Settlement Amount, to the Class, after payment of the Fee Award, the Service Award and Notice and Distribution Costs.
- aa. “Settlement Agreement,” “Settlement” or “Agreement” means this Settlement Agreement, including the attached Exhibits.
- bb. “Settlement Amount” means the \$325,000 to be paid by the City and SUEZ to resolve this Action.
- cc. “Settlement Website” means a website to be established by the Settlement Administrator for purposes of informing Class Members about the Settlement and submitting Claim Forms, as described below.
- dd. “SUEZ” means the Third-Party Defendant, SUEZ Water Environmental Services, Inc., formerly known as United Water Environmental Services, Inc., and now known as Veolia Water Contract Operations USA, Inc. (“Veolia”).

ee. "Summary Notice" means the summary notice of class action settlement attached hereto as Exhibit E.

III. SETTLEMENT AMOUNT

2. In full satisfaction of any claims that were asserted in this Action by Plaintiff and the Class against the City, and by the City against SUEZ, the City and SUEZ will collectively pay Plaintiff and the Class the total sum of \$325,000.00 which shall constitute the Settlement Amount.

3. The City and SUEZ will pay the Settlement Amount to Class Counsel, who agree to provide Defense Counsel with a W-9 form, no later than thirty (30) days after the date on which the Court enters the Preliminary Approval Order.

4. The Settlement Amount shall be paid into and remain in the Administration Account until the Court enters the Final Order and Judgment.

5. If the Settlement is not approved by the Court, Class Counsel shall return the Settlement Amount, with interest, to the City and SUEZ within fourteen (14) days of the Court's order denying approval of the Settlement.

IV. THE FEE AWARD

6. Class Counsel intend to submit a Fee Application to the Court seeking an award of attorneys' fees of up to 33 % of the Settlement Amount plus reimbursement of the expenses that Class Counsel incurred in this Action.

7. The Fee Application shall be subject to approval of the Court, and the Fee Award, as approved by the Court, shall be paid to Class Counsel out of the Settlement Amount.

8. The City and SUEZ shall not object to any Fee Application for an award of attorneys' fees of up to 33 % of the Settlement Amount plus reimbursement of the expenses Class Counsel incurred in this Action to be paid to Class Counsel out of the Settlement Amount.

V. THE SERVICE AWARD

9. Class Counsel intend to apply for a Service Award of up to \$15,000 to be paid to Plaintiff out of the Settlement Amount.

10. The application for a Service Award shall be subject to approval of the Court and any Service Award shall be paid to Plaintiff out of the Settlement Amount.

11. The City and SUEZ shall not object to any application for a Service Award up to \$15,000 to be paid to Plaintiff out of the Settlement Amount.

VI. NOTICE

12. Immediately following the entry of the Preliminary Approval Order, the parties will work together with the Settlement Administrator to include copies of the Summary Notice and Claim Form with the next set of water bills the City sends to all Gardner residents. The Summary Notice shall include a link to the Settlement Website, where Class Members will be able to access the full Notice and Claim Form.

13. Class Counsel will e-mail or mail copies of the Summary Notice and Claim Form to any Class Members who have contacted Class Counsel.

14. No later than thirty (30) days after the entry of the Preliminary Approval Order, the Settlement Administrator shall cause the Summary Notice, substantially in the form attached hereto as Exhibit E, to be published once a week for two consecutive weeks in the Gardner News.

15. No later than (30) days after the entry of the Preliminary Approval Order, the Settlement Administrator shall cause the Summary Notice, substantially in the form attached hereto as Exhibit E, to be published on the “Gardner Massachusetts, what's going on” Facebook page, which currently has over 16,000 members.

16. No later than ten (10) days before the Final Approval Hearing, the Settlement Administrator will provide Plaintiffs’ Counsel and Defense Counsel with an affidavit or declaration attesting that the Notice and Summary Notice have been disseminated in accordance with the Preliminary Approval Order. Class Counsel shall file the affidavit or declaration with the Court no later than seven (7) days prior to the Final Approval Hearing.

17. Other than as set forth herein, the City and SUEZ will play no part in the selection of the Settlement Administrator or in the notice process and will have no responsibility for payment of any portion of the Notice and Distribution Costs, which will be paid out of the Settlement Amount.

VII. DISTRIBUTION

18. The distribution of the Settlement Amount to the Class Members shall be made pursuant to the following plan of distribution, subject to approval by the Court.

19. The Settlement Amount shall be distributed by the Settlement Administrator, at the direction of Class Counsel, and subject to the approval of the Court, as follows:

- a. First, to pay the Fee Award to Class Counsel;
- b. Second, to pay Notice and Distribution Costs;
- c. Third, to pay for the Service Award to Plaintiff;
- d. Fourth, to pay the Class Members.

20. The amount available for distribution to the Class after payment of the Notice and Distribution Costs, the Fee Award and the Service Award is referred to as the “Net Settlement Amount.”

21. To be entitled to a share of the Net Settlement Amount, a Class Member must submit a valid Claim Form, substantially in the form attached hereto as Exhibit A, no later than the claim deadline established in the Preliminary Approval Order, or any later date set by the Court.

22. A copy of the Claim Form shall be disseminated with the Summary Notice as provided in paragraphs 12 and 13 above. In addition, the Settlement Website shall contain a Claim Form which may be downloaded from the Settlement Website or completed and submitted via the Settlement Website. A Class Member may submit the Claim Form on or prior to the deadline for submitting Claim Form either (a) electronically via the Settlement Website, (b) by email to the email address listed in the Claim Form or (c) by mailing (via the United States Postal Service or private mail carrier) a paper copy to the mailing address listed in the Claim Form. The deadline for submitting a Claim Form shall be no later than sixty (60) days after the Final Approval Hearing, subject to extension by the Court.

23. The Claim Form shall indicate whether the Class Member replaced one Coil or more than one Coil.

24. The Net Settlement Amount shall be distributed to pay Class Members who have properly and timely submitted Claim Forms in the manner directed by the Court. Each such Class Member will be entitled to receive their *pro rata* share of the Net Settlement Amount, which will be divided among Class Members who have submitted valid and timely Claim Forms based on the number of Coils they replaced up to a maximum of 3 coils. A Class Member who

indicates they replaced one Coil will count as having claimed one Coil replacement. A Class Member who indicates they replaced two coils will count as having claimed two Coil replacements. A Class Member who indicates that they replaced more than two Coils will count as having claimed three Coil replacements. A Class Member who replaced one Coil will receive a distribution of (1) divided by the total number of claimed Coil replacements multiplied by the Net Settlement Amount. A Class Member who replaced two Coils will receive a distribution of (2) divided by the total number of claimed Coil replacements multiplied by the Net Settlement Amount. A Class Member who replaced three or more Coils will receive a distribution of (3) divided by the total number of claimed Coil replacements multiplied by the Net Settlement Amount.

25. Any portion of the Net Settlement Amount that shall remain undistributed to Class members shall be distributed in the manner determined by the Court in accordance with Mass. R. Civ. P. 23(e).

26. No later than thirty (30) days after the entry of the Preliminary Approval Order, Class Counsel shall give notice to the Massachusetts IOLTA Committee pursuant to Mass. R. Civ. P. 23(e)(3), for the limited purpose of allowing the committee to be heard on whether it ought to be a recipient of any or all residual funds.

27. After the Court issues the Final Order and Judgment, under no circumstances shall any portion of the Settlement Amount revert to the City or SUEZ, or any of the Released Parties.

28. Other than as set forth herein, the City and SUEZ will play no part in the distribution process and will have no responsibility for the selection of the Settlement

Administrator or payment of any portion of the Notice and Distribution Costs, which shall be paid out of the Settlement Amount.

VIII. RELEASE

29. On the Effective Date, the Releasing Parties shall be bound by this Settlement Agreement and shall have recourse exclusively to the benefits, rights and remedies provided hereunder. No other action, demand, suit or other claim may be pursued by the Releasing Parties against the Released Parties with respect to the Released Claims.

30. On the Effective Date, the Releasing Parties shall be deemed to have, and by operation of the Final Order and Judgment shall have, fully, finally and forever released, relinquished and discharged the Released Parties from any and all of the Released Claims.

IX. COURT APPROVAL OF SETTLEMENT

31. The Parties, Plaintiff's Counsel and Defense Counsel shall use their respective best efforts to obtain Court approval of this Settlement. The process for obtaining Court approval of this Settlement shall be as follows:

- a. Preliminary Approval. No later than fourteen (14) days after the execution of this Settlement Agreement, Plaintiff shall move the Court for entry of a Preliminary Approval Order substantially in the form of Exhibit B attached hereto. That motion will not be opposed by the City and SUEZ.
- b. Notice. Following entry of the Preliminary Approval Order, Plaintiff shall cause notice to be given to the Class Members in the manner directed by the Court in the Preliminary Approval Order, no later than thirty (30) days after the entry of the Preliminary Approval Order.

c. Final Approval. On the date set forth in the Preliminary Approval Order, or on such other date as may be set by the Court, the Court shall conduct a Final Approval Hearing in order to: (1) determine whether to grant final approval to this Settlement; (2) consider any timely objections to this Settlement and all responses to objections by the Parties; (3) rule on the Fee Application; and (4) rule on the Service Award. At the Final Approval Hearing, Plaintiff shall ask the Court to give final approval to the Settlement, the Fee Award, and the Service Award, and to enter a Final Order and Judgment substantially in the form attached hereto as Exhibit D, which will not be opposed by the City and SUEZ. The Final Approval Hearing shall be held no earlier than one-hundred and twenty (120) days after the entry of the Preliminary Approval Order.

32. No later than forty-five (45) days before the Final Approval Hearing, Plaintiff shall file with the Court and serve on Defense Counsel her motion for final approval of the Settlement, and her applications for the Fee Award and Service Award, and any supporting materials.

33. Any Class Member wishing to object to the approval of this Settlement, and/or to oppose the Fee Application or Service Award, shall inform the Court and the Parties in writing of his or her objection by following the procedures and objection deadlines set forth in the Notice. Any Class Member who fails to object to the Settlement in the manner described in the Notice shall be deemed to have waived any such objection, shall not be permitted to object to any terms or approval of the Settlement or the Fee Application at the Final Approval Hearing, and shall be foreclosed from seeking any review of the Settlement or Fee Application by appeal or other means. All objections must be served upon Class Counsel and Defense Counsel and

filed with the Court no later than twenty-four (24) days prior to the Final Approval Hearing. Any Party may file a response to any objection no later than ten (10) days prior to the Final Approval Hearing.

X. EFFECTIVE DATE, TERMINATION OR MODIFICATION

34. The Settlement shall become effective on the Effective Date.

35. If, for any reason, the Court fails to grant final approval to this Settlement or to enter the Final Order and Judgment, or if the Final Order and Judgment is reversed or rendered void in any material respect as a result of an appeal, then either Party, at its sole discretion, may terminate this Settlement Agreement by providing written notice of that Party's intent to terminate the Settlement to the other Party within fourteen (14) days after such triggering event.

36. If as a condition of preliminary approval or final approval of the Settlement Agreement the Court orders any material modification to the Settlement Agreement that has not been previously agreed to by the Parties, then the Parties, and each of them, shall have the option to terminate the Settlement Agreement if they are not willing to accept any such modification, by providing written notice of the Party's intent to terminate the Settlement to the other Party within fourteen (14) days after such triggering event.

37. Notwithstanding the foregoing, the failure of the Court to approve the Fee Award requested by Plaintiff's Counsel, or any modification of or appeal from the Fee Award, shall not delay the Effective Date, or be a basis for either Party to terminate the Settlement. If the Settlement is terminated by either Party pursuant to the provisions of this Agreement, then the Settlement Agreement shall be null and void and of no force and effect, and all Parties to this Settlement Agreement shall be returned to the *status quo ante*, and stand in the same position,

without prejudice, as if the Settlement Agreement had neither been entered into nor filed with the Court, with all rights that existed prior to entering the Settlement Agreement being preserved.

XI. MISCELLANEOUS PROVISIONS

38. The Parties acknowledge and agree that this Settlement Agreement results from the settlement of a disputed claim and is not an admission of fault or liability by the City or SUEZ (now known as Veolia).

39. This Agreement shall be binding upon and inure to the benefit of the Parties and the Class members and their respective heirs, trustees, executors, successors and assigns.

40. The Parties, Plaintiff's Counsel and Defense Counsel agree that the terms and conditions of this Settlement Agreement are the result of arms-length negotiations between the Parties and that this Agreement shall not be construed in favor or against any of the Parties by reason of the extent to which any of the Parties, or their counsel, participated in the drafting of this Agreement.

41. This Agreement, and any amendments hereto, may be executed in any number of counterparts, each of which when executed and delivered shall be deemed to be an original and all of which counterparts taken together shall constitute but one and the same instrument.

42. Construction and interpretation of the Agreement shall be determined in accordance with the laws of the Commonwealth of Massachusetts, irrespective of the Commonwealth of Massachusetts' choice of law principles.

43. This Agreement, including the Exhibits referred to herein, which form an integral part hereof, contains the entire understanding of the Parties, Plaintiff's Counsel and Defense Counsel, in respect of the subject matter contained herein. There are no promises, representations, warranties, covenants or undertakings governing the subject matter of this

Agreement other than those expressly set forth in this Agreement. This Agreement supersedes all prior agreements and understandings among the Parties, Plaintiff's Counsel and Defense Counsel, with respect to the settlement of this Action. This Agreement may not be changed, altered or modified, except in a writing signed by the Parties, Plaintiff's Counsel and Defense Counsel, and approved by the Court.

44. After entry of the Final Order and Judgment, the Court shall retain jurisdiction with respect to enforcement of the terms of this Settlement, and all Parties, their counsel and Class Members shall be deemed to have submitted to the exclusive jurisdiction of the Court with respect to the enforcement of any dispute with respect thereto.

45. The signatories hereto hereby represent that they are fully authorized to enter into this Agreement and to bind the Parties to the terms and conditions hereof.

46. To the extent permitted under applicable law, any failure of any of the Parties, Plaintiff's Counsel or Defense Counsel to comply with any obligation, covenant, agreement or condition set forth herein may be expressly waived in writing, by the person or entity entitled to the benefit of such obligation, covenant, agreement or condition. A waiver or failure to insist upon strict compliance with any representation, warranty, covenant, agreement or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

47. Any notice to a Party that is required under this Settlement Agreement, or the Exhibits hereto, must be provided in writing as follows:

- a. If to Plaintiff, Plaintiff's Counsel or Class Counsel, by giving notice to
Shapiro Haber & Urmey, LLP, One Boston Place, Boston, MA 02108.
- b. If to the City or its counsel, by giving notice to Pierce Davis & Perritano,
LLP, 10 Post Office Square, Suite 1100N, Boston, MA 02109.

c. If to SUEZ or its counsel, by giving notice to Campbell Conroy & O'Neil,
P.C., 20 City Square, Suite 300, Boston, MA 02129.

IN WITNESS WHEREOF, THE PARTIES HAVE EXECUTED THIS SETTLEMENT
AGREEMENT ON THE DATE LAST SET FORTH BELOW:

Dated: 7-10-2025

Janice Magliacane Progin
Janice Magliacane Progin, Plaintiff

Dated: _____

SHAPIRO HABER & URMY LLP
By: Ian J. McLoughlin
Counsel for Plaintiff and the Certified Class

Dated: _____

City of Gardner, Defendant
By: _____

Dated: _____

PIERCE DAVIS & PERRITANO, LLP
By: _____
Counsel for Defendant City of Gardner

Dated: 7/16/2025

Signed by:
Jonathan Prince
000004700540443
Veolia Water Contract Operations USA, Inc.
(formerly known as SUEZ Water Environmental
Services, Inc.), Third-Party Defendant
By: _____

Dated: _____

07-21-25



CAMPBELL, CONROY & O'NEIL, PC

By:

*Counsel for Third-Party Defendant Veolia Water
Contract Operations USA, Inc (formerly known as
SUEZ Water Environmental Services, Inc.)*

Exhibit A

CITY OF GARDNER COILS CLAIM FORM

You can also file online at: _____ .com

You must complete the required information below. All claim forms must be postmarked or submitted online by _____, _____. If mailing, please return this form to:

City of Gardner Coils Class Action Settlement Administrator
[ADDRESS]

Class Member Information

Name: _____ Telephone: _____

Current Address
Number/Street: _____ City: _____ State: _____ Zip Code: _____

Address Where Coils Replaced (If Different from Current Address)
Number/Street: _____ City: _____ State: _____ Zip Code: _____

Information regarding Coil Replacements

If you are a Gardner resident, property owner or businesses who was supplied water by the City of Gardner and whose copper heating coils in your tankless hot water heating systems failed and had to be replaced, you may receive a *pro rata* share of the Net Settlement Amount as defined in the Stipulation and Agreement of Settlement (available at _____ .com), which will be divided equally among Class Members who have submitted valid and timely Claim Forms based on the number of Coils they replaced up to a maximum of 3 coils. These settlement benefits are subject to adjustment upward or downward depending upon the volume of legitimate claims submitted.

All claims are subject to verification, and you may be asked to provide additional information or documentation to substantiate your claim.

Please indicate the number of copper heating coils in your tankless hot water heating systems that failed and had to be replaced: _____

I confirm that the above statements are true and accurate to the best of my knowledge.

Signature

Date

CLAIM FORMS MUST BE POSTMARKED OR SUBMITTED ONLINE BY _____
QUESTIONS? VISIT _____ .COM

Exhibit B

COMMONWEALTH OF MASSACHUSETTS

WORCESTER, ss.

SUPERIOR COURT
C.A. NO. 1785CV02005B

JANICE MAGLIACANE, on behalf of herself
and others similarly situated,

Plaintiff,

v.

CITY OF GARDNER,

Defendant/Third Party
Plaintiff,

v.

SUEZ WATER ENVIRONMENTAL
SERVICES, INC. (formerly known as
United Water Environmental Services, Inc.),

Third Party Defendant.

[PROPOSED] FINAL ORDER AND JUDGMENT

WHEREAS, on _____, 2025, this Court entered a Preliminary Approval Order, which preliminarily approved the class action settlement set forth in the Stipulation and Agreement of Settlement dated July 2025 (the “Settlement Agreement”) between Plaintiff Janice Magliacane, individually and on behalf of the Class (“Plaintiff”), Defendant City of Gardner (the “City” or “Defendant”) and Third Party Defendant SUEZ Water Environmental Services, Inc., and

WHEREAS, pursuant to the plan of Notice approved by the Court, the Class was notified of the terms of the proposed Settlement by mail, e-mail, publication and internet notice, and that at the Final Approval Hearing the Court would determine, *inter alia*: (1) whether the terms and conditions of the Settlement Agreement are fair, reasonable and adequate; (2) whether judgment should enter dismissing this action with prejudice; (3) whether Plaintiffs' Counsel's Fee Application should be approved, and (4) whether the Service Award to the Plaintiff should be approved, and

WHEREAS, the Court finds that the plan of Notice described in the Settlement Agreement and approved by the Court in the Preliminary Approval Order constitutes the best practicable notice, and was fair, reasonable and adequate, and

WHEREAS, the Court now finds that notice was given to the Class members in the manner ordered by the Court, and

WHEREAS, on _____, 2025, this Court held a Final Approval Hearing at which the Court considered all of the submissions presented to it with respect to the Settlement.

IT IS HEREBY ORDERED THAT:

1. For purposes of this Order and Judgment, the Court now adopts all defined terms as set forth in the Settlement Agreement, which are incorporated herein by reference.
2. The Court has jurisdiction over the subject matter of this Action and over all claims raised herein and all Parties hereto, including the Class.
3. By Order dated December 28, 2022, this Court certified the Class, consisting of all Gardner residents, property owners and businesses who were supplied water by the City and whose copper heating coils in their tankless hot water heating systems failed and had to be replaced.

4. On _____, 2025, Class Counsel filed with the Court an affidavit from the Settlement Administrator attesting to compliance with and completion of the plan of Notice set forth in the Settlement Agreement.

5. The Court finds that the plan of Notice as described in paragraphs 12 through 17 of the Settlement Agreement, including the use of mail, email, publication and internet notice, constituted the best notice practicable under the circumstances and constituted due and sufficient notice to the Class. The Court further finds the plan of Notice satisfied the requirements of the Massachusetts Rules of Civil Procedure and the requirements of Due Process of the Constitution of the United States and the Commonwealth of Massachusetts and any other applicable law, and that such plan provided due and sufficient notice to all persons entitled thereto.

6. The Settlement set forth in the Settlement Agreement is in all respects fair, reasonable, adequate and in the best interests of the Class. This Settlement was negotiated at arms'-length by experienced counsel who were fully informed of the legal and factual issues in this Action. The proposed settlement represents an excellent result after almost eight years of hard-fought litigation, which included an appeal before the Supreme Judicial Court, and reflects Class Counsel's careful consideration of the risks and costs of future litigation, including trial and appeals.

7. The Parties and their Counsel shall effectuate the Settlement Agreement according to its terms. The Settlement Agreement and every term and provision thereof shall be deemed incorporated herein as if explicitly set forth herein and shall have the full force of an Order of this Court.

8. On the Effective Date, the Releasing Parties shall be bound by the Settlement Agreement and shall have recourse exclusively to the benefits, rights and remedies provided

thereunder. No other action, demand, suit or other claim may be pursued against the Released Parties with respect to the Released Claims by the Releasing Parties.

9. Upon the Effective Date, the Releasing Parties shall be deemed to have, and by operation of this Final Order and Judgment, shall have fully, and finally and forever released, relinquished and discharged the Released Parties from any and all of the Released Claims.

10. The Court hereby awards Plaintiffs' Counsel attorneys' fees, costs and expenses in the amount of \$_____ to be paid from the Settlement Fund in accordance with the terms of the Settlement Agreement. The Court concludes that this the Fee Award is fully justified by, among other things, the papers submitted in support of the Fee Application as well as the exceptional work performed by Class Counsel over the past nearly eight years of litigation in this Action, and the fact that they have to date received no compensation for that work or any reimbursement of any of the out of pocket expenses that they have made in support of the claims of the Plaintiff and the Class.

11. The Court hereby approves the payment of a Service Award in the amount of \$_____ to Janice Magliacane Progin to be paid out of the Settlement Fund as provided in the Settlement Agreement. The Court concludes this Service Award is justified in light of the time and effort spent by Ms. Magliacane in the investigation and prosecution of this Action.

12. Without further order of the Court, the Parties may agree to reasonably necessary extensions of time to carry out any of the provisions of the Settlement Agreement.

13. This Final Order and Judgment shall be effective upon its entry. In the event that this Final Order and Judgment is reversed or vacated pursuant to an appeal or the Settlement Agreement is terminated pursuant to its terms, all orders and Releases delivered in connection herewith shall be null and void, and the Parties shall be returned to the *status quo ante*.

14. This Action is hereby dismissed in its entirety with prejudice. Except as otherwise provided in this Order, the Parties shall bear their own costs and attorneys' fees.

15. Without affecting the finality of the Order and Judgment hereby entered, the Court reserves jurisdiction over the construction, interpretation, consummation, implementation and enforcement of the Settlement Agreement, including jurisdiction to enter such further orders as may be necessary or appropriate.

16. The Clerk of the Court is expressly directed to enter this Final Order and Judgment pursuant to Rule 54 of the Massachusetts Rules of Civil Procedure.

IT IS HEREBY ORDERED.

Dated: _____, 2025

Justice of the Superior Court

Exhibit C

NOTICE OF CLASS ACTION SETTLEMENT

Janice Magliacane v. City of Gardner v. SUEZ Water Environmental Services, Inc.
Massachusetts Superior Court, Civil Action No. 1785-CV-02005B

PLEASE READ THIS CLASS CERTIFICATION NOTICE CAREFULLY. IT MAY AFFECT YOUR RIGHTS.

A \$325,000 Settlement has been reached in a certified class action lawsuit regarding the defendant City of Gardner (the “City”) and third party defendant SUEZ Water Environmental Services, Inc. (“SUEZ”), the City’s private water system operator. The class action concerns the City and SUEZ’s supply of water to Gardner residents, property owners and businesses, which water plaintiff Janice Magliacane alleges caused copper heating coils in tankless hot water heating systems in Gardner to fail.

Affected Gardner residents, property owners and businesses may be eligible to receive a cash payment upon the submission of a valid claim form by _____, __, 2025.

Your legal rights are affected whether you act or do not act. Please read this notice carefully.

Summary of Your Legal Rights and Options in This Settlement	
Submit a Claim	If you are a Class Member, to receive the cash benefit described in this notice, you must submit a claim form by mail (using the form attached to this notice) or online at _____.com by _____, __, 2025.
Object	Write to the Court and the lawyers for both sides if you object to the Settlement. The Court will consider your objection in determining whether to approve the Settlement.
Do Nothing	Remain in the Settlement and receive no benefits.

The rest of this notice provides further information about the Action, this Settlement, and your legal rights and options in connection with the Settlement. Capitalized terms in this notice are defined in the Stipulation and Agreement of Settlement, which is available on the Settlement Website.

Questions? Visit _____ .com

Why did I get this notice?

A Court authorized this notice because you may be part of the Class described below, in which case you have a right to know that the Class has been certified and to know about a proposed Settlement of this class action and about all of your options before the Court decides whether to give final approval to the Settlement. This Notice explains the lawsuit, the Settlement, and your legal rights.

The case is pending in Worcester Superior Court and is known as *Magliacane v. City of Gardner et al.*, Civ. Act. No. 1785-CV-02005B (the “Action”). The person who sued is Janice Magliacane. The defendant is the City of Gardner, and the third party defendant is SUEZ.

What is the case about?

Plaintiff brought this class action alleging claims against the City for negligence, gross negligence and nuisance relating to the supply of water to Gardner residents, property owners and businesses, which Plaintiff alleged caused copper heating coils in tankless hot water heating systems in Gardner to fail. The City denies any wrongdoing, however if there was an error the City alleges third party claims against its private water system operator SUEZ for breach of contract, indemnity and contribution. SUEZ denies any wrongdoing.

Am I a class member?

The court has allowed this case to proceed as a class action. The Class includes all Gardner residents, property owners and businesses who were supplied water by the City and whose copper heating coils in their tankless hot water heating systems failed and had to be replaced.

What are the terms of the Settlement?

Under the proposed Settlement, the City and SUEZ have agreed to pay \$325,000, collectively, to resolve this action (the “Settlement Amount”).

If the Settlement is approved, Class Members will be prevented from bringing any claims against the City or SUEZ (as well as each of their present, former, or future subsidiaries, parents, affiliates, successors, predecessors, insurers, insurance administrators, claims administrators, officers, directors, employees, elected officials, appointed officials, representatives, agents or principals) that were asserted, or which could have been asserted, in the Action by Plaintiff, including but not limited to claims for negligence, gross negligence or nuisance, relating to the supply of water to Gardner residents, property owners and businesses, which allegedly caused their Coils to fail.

How is the Settlement Amount being distributed?

The lawyers for the Class will ask the Court to award them attorneys’ fees of up to 33% of the Settlement Amount, plus expenses, from the Settlement Amount. Class Counsel will also ask the Court to award up to \$15,000 to the plaintiff who brought this lawsuit to compensate her for her efforts in the case, including responding to discovery requests and giving a deposition, to be paid out of the Settlement Amount. Class Counsel will also ask the Court to allow the costs of providing notice and administering the Settlement to be paid out of the Settlement Amount.

The remaining amount available to be paid to the Class Members (the “Net Settlement Amount”) will be distributed to Class Members who mail or submit online a completed valid claim form by

_____, 2025. Each Class Member who submits a valid, timely Claim Form will be entitled to receive their *pro rata* share of the Net Settlement Amount, which will be divided among Class Members who have submitted valid, timely Claim Forms based on the number of Coils they replaced up to a maximum of 3 coils.

To illustrate, by way of example only, assuming the Net Settlement Amount was \$180,000, if there were 1,000 claimed coil replacements, class members would receive \$180 per coil replacement (up to a maximum of three coil replacements, or \$540). If there are fewer claimed coil replacements, the amount per coil will be higher. If there are more claimed coil replacements, the amount per coil will be lower.

If after distribution of the aforementioned items, as approved by the Court, there is money left over, the Court will decide how to distribute those undistributed funds.

How can I get my share of the Class Recovery?

If the Settlement is approved by the Court, and you complete and submit a valid, timely Claim Form, your *pro rata* share of the Net Settlement Amount, if any, will be sent by check to your most recent mailing address. If you have a more current address, please notify the Settlement Administrator.

If you are a Class Member and want to receive the cash benefit described in this Settlement, you **MUST** submit a claim form, either by mailing a completed, signed claim form attached to this notice, or by submitting a claim form online at _____.com.

What if I do not want to be part of the Class?

Under Massachusetts law, class members do not have the right to exclude themselves from the Class. So, if you are a Gardner resident, property owner or and business who was supplied water by the City and whose copper heating coils in your tankless hot water heating systems failed and had to be replaced, you are and will remain part of the Class.

Who represents the Class in this case?

Plaintiff Janice Magliacane and the Class have been represented throughout this case by the Boston law firm of Shapiro Haber & Urmy LLP ("Class Counsel").

How will the lawyers be paid?

Since this case was filed more than seven years ago, Class Counsel has not received any payment for any of their legal services they have provided or any reimbursement of any of the out-of-pocket expenses they have incurred in the case. Class Counsel plan to ask the Court to award them attorneys' fees of up to 33% of the Settlement Amount, plus expenses, from the Settlement Amount.

Will the Court review the fairness of the Settlement and Class Counsel's fee request?

Yes, the Court will hold a Final Approval Hearing on _____, _____ at _____:_____.m. in Courtroom _____, Worcester Superior Court, 225 Main Street, Worcester, MA 01608. The Court may reschedule the hearing without further notice. At the hearing, the Court will consider whether: (a) the Settlement is fair, reasonable and adequate; (b) the Court should approve

payment of a service award of up to \$15,000 to Plaintiff Janice Magliacane from the Settlement Amount; and (c) the Court should approve Class Counsel' request for attorneys' fees and expenses of up to 33% of the Settlement Amount, plus expenses, from the Settlement Amount.

What should I do if I object to the Settlement?

If you are a Class Member, you may object to any aspect of the Settlement, including the applications for a Service Award to Plaintiff Janice Magliacane and the award of attorneys' fees and expenses to Class Counsel. In order to object, you must, on or before _____, __, ____:

- Submit a written notice to the Worcester Superior Court, 225 Main Street, Worcester, MA 01608, which contains: (a) the case name and number, (b) your name, address and telephone number, (c) a statement setting out your objections and the basis for them, along with any documentation you intend to rely on at the Final Approval Hearing, (d) a statement of whether you intend to appear at the Final Approval Hearing, and (e) a statement indicating the number of times in the past three years you and/or your counsel have objected to a class action settlement, listing each one by name of case, jurisdiction, docket number and outcome of the objection.
- Send copies of all of these materials by first-class mail to counsel at:

Class Counsel

Michelle Blauner
Shapiro, Haber & Urmy LLP
One Boston Place – 26th Floor
Boston, MA 02108

Counsel for the City

Jason Crotty
Pierce Davis & Perritano LLP
10 Post Office Square
Suite 1100N
Boston, MA 02109

Counsel for SUEZ

Christopher Howe
Campbell, Conroy & O'Neil, P.C.
20 City Square
Suite 300
Boston, MA 02129

How can a Class Member get more information?

This Notice is a summary and does not describe all the details of the Settlement. You are encouraged to read the Settlement Agreement, the Preliminary Approval Order, and other documents. You may obtain a copy of these documents online at _____ .com, or you

may obtain further information regarding the Settlement by calling the Settlement Administrator toll-free at _____, or by emailing questions to the Settlement Administrator at _____ .com.

You may also contact Class Counsel with any questions by mail at Shapiro Haber & Urmy LLP, One Boston Place, Boston, MA 02108, by toll-free telephone at 1- 888-233-1782 or by email at shu@shulaw.com.

PLEASE DO NOT CALL OR WRITE THE COURT FOR INFORMATION OR LEGAL ADVICE.

DATED: _____, 2025

Exhibit D

COMMONWEALTH OF MASSACHUSETTS

WORCESTER, ss.

SUPERIOR COURT
C.A. NO. 1785CV02005B

JANICE MAGLIACANE, on behalf of herself
and others similarly situated,

Plaintiff,

v.

CITY OF GARDNER,

Defendant/Third Party
Plaintiff,

v.

SUEZ WATER ENVIRONMENTAL
SERVICES, INC. (formerly known as
United Water Environmental Services, Inc.),

Third Party Defendant.

[PROPOSED] PRELIMINARY APPROVAL ORDER

The Court having reviewed the Plaintiff's Motion for Preliminary Approval of the Settlement of this Action and the Stipulation and Agreement of Settlement dated July 2025 (the "Settlement Agreement") between Plaintiff Janice Magliacane, individually and on behalf of the Class ("Plaintiff"), Defendant City of Gardner (the "City" or "Defendant") and Third Party Defendant SUEZ Water Environmental Services, Inc., and good cause appearing therefor, IT IS HEREBY ORDERED AS FOLLOWS:

1. For purposes of this Order, the Court adopts all the defined terms that are used in the Settlement Agreement and incorporates those terms by reference in this Order.

2. The Court preliminarily approves the Settlement of this Action that is set forth in the Settlement Agreement. Subject to any further submissions that may be made at or prior to the Final Approval Hearing described below, the Court finds that the Settlement is fair, just, reasonable and adequate to the certified Class and its members.

3. This Court has previously certified a Class consisting of all Gardner residents, property owners and businesses who were supplied water by the City and whose copper heating coils in their tankless hot water heating systems failed and had to be replaced (the “Class”).

4. The Court hereby approves the form of Notice attached hereto as Exhibit A and the form of Summary Notice attached hereto as Exhibit B. The Court finds that the Notice and the Summary Notice are reasonably and practicably calculated to apprise the Class of the proposed Settlement, and their rights and obligations thereunder, including, *inter alia*, their rights to submit claims, to object to the Settlement and to attend the Final Approval Hearing.

5. The Court approves the plan of notice and finds that the plan of mail, email, publication and internet notice described in paragraphs 12 through 17 of the Settlement Agreement is appropriate and is reasonably and practicably calculated to apprise the Class of the proposed Settlement, and their rights and obligations thereunder, including, *inter alia*, their rights to submit claims, to object to the Settlement and to attend the Final Approval Hearing.

6. Immediately following the entry of this Order, the parties will work together to include copies of the Summary Notice and Claim Form with the next set of water bills the City sends to all Gardner residents. Class Counsel will also e-mail or mail copies of the Summary Notice and Claim Form to any Class Members who have contacted Class Counsel. The Summary

Notice shall include a link to the Settlement Website, where Class Members will be able to access the full Notice and Claim Form.

7. The Settlement Administrator shall implement the plan of Notice in accordance with Paragraphs 12 through 17 of the Settlement Agreement, which also includes publication of the Summary Notice.

8. The Court finds that dissemination of the Notice and plan of Notice described above and in Paragraphs 12 through 17 of the Settlement Agreement constitutes the best notice practicable, and that it is reasonably calculated, under all the circumstances, to apprise Class members of the terms of the Settlement and afford them an opportunity to submit claims or present objections, or otherwise avail themselves of their rights under the Settlement.

9. The Court further finds that the plan of Notice meets the requirements of the Massachusetts Rules of Civil Procedure and the requirements of Due Process of the Constitutions of the United States and the Commonwealth of Massachusetts, as well as any other applicable law and that such Notice constitutes due and sufficient notice to all persons entitled thereto.

10. Not later than seven (7) days before the Final Approval Hearing described below, Class Counsel shall file an affidavit or declaration from the Settlement Administrator attesting to compliance with and completion of the plan of Notice set forth in the Settlement Agreement.

11. The Court hereby approves the Claim Form attached hereto as Exhibit C. To be valid, any Claim Form must be submitted to the Settlement Administrator in the manner provided in the Claim Form, and no later than sixty (60) days after the date of the Final Approval Hearing, subject to extension by the Court.

12. The Final Approval Hearing shall be held at _____ .m. on _____, 2025, in Courtroom _____, Worcester Superior Court, 225 Main Street, Worcester, Massachusetts, to determine whether the proposed Settlement of the Action, as set forth in the Settlement Agreement, should be approved as fair, reasonable and adequate to the Class and its members, and whether the Final Order and Judgment approving the Settlement should be entered. At the Final Approval Hearing, the Court also will determine whether Class Counsel's Fee Application and request for a Service Award to the Plaintiffs should be approved. At that hearing the Court will also consider any timely objections to the Settlement Agreement, the Fee Application or the Service Award, and all responses to objections by the Parties.

13. No later than 45 days before the Final Approval Hearing, Plaintiff shall file with the Court and serve on Defense Counsel, her motion for final approval of the Settlement, Fee Application, and any supporting materials. The memorandum in support of the Settlement and the Fee Application shall also be posted on the Settlement Website.

14. Any Class member wishing to object to the approval of this Settlement Agreement, the Service Award or the Fee Application shall inform the Court and the Parties in writing of his or her objection by following the procedures and objection deadlines set forth in the Notice. Any Class member who fails to object to the Settlement, the Service Award or the Fee Application in the manner described in the Notice shall be deemed to have waived any such objection, shall not be permitted to object to any terms or approval of the Settlement, the Service Award or the Fee Application at the Fairness Hearing, and shall be foreclosed from seeking any review of the Settlement, the Service Award or Fee Application by appeal or other means. As set forth in the Notice, any and all objections must be submitted no later than 24 days prior to the

Final Approval Hearing and be sent to Class Counsel, Defense Counsel and the Court. Any Party may file a response to any objection no later than ten days prior to the Final Approval Hearing.

15. The Court hereby directs the Parties, Class Counsel and Defense Counsel to proceed in accordance with the terms of the Settlement Agreement, and hereby authorizes them to take all acts reasonably necessary to implement this Preliminary Approval Order.

16. The Court may, for good cause, change the date of the Final Approval hearing or extend any of the deadlines set forth in this Order without further notice to the Class members.

IT IS HEREBY ORDERED.

Dated: _____, 2025

Justice of the Superior Court

Exhibit E

NOTICE OF CLASS ACTION SETTLEMENT

Janice Magliacane v. City of Gardner v. SUEZ Water Environmental Services, Inc.
Massachusetts Superior Court, Civil Action No. 1785-CV-02005B

A \$325,000 Settlement has been reached in a certified class action lawsuit against defendant City of Gardner (the “City”) and third party defendant SUEZ Water Environmental Services, Inc. (“SUEZ”), the City’s private water system operator. The class action concerns the City and SUEZ’s supply of water to Gardner residents, property owners and businesses, which water plaintiff Janice Magliacane alleges caused copper heating coils in tankless hot water heating systems in Gardner to fail. The City and SUEZ deny any wrongdoing.

Affected Gardner residents, property owners and businesses may be eligible to receive a cash payment upon the submission of a valid claim form by _____, __, ____.

What does the Settlement provide? The settlement creates a fund of \$325,000. Each Class Member who files a valid and timely claim form will be eligible to receive a cash payment. A Claim Form is enclosed with this Notice, and is also available at _____.com. The City and SUEZ deny any wrongdoing.

Am I a Class Member? You are a class member if you are a Gardner resident, property owner and or business who was supplied water by the City and who had copper heating coils in a tankless hot water heating system fail and have to be replaced.

How is the Settlement Amount being distributed? The lawyers for the Class will ask the Court to award them attorneys’ fees of up to 33% of the Settlement Amount, plus expenses, as well as to award the plaintiff who brought this lawsuit up to \$15,000 for her efforts in this case, from the Settlement Amount. Class Counsel will also ask the Court to allow the costs of providing notice and administering the Settlement to be paid out of the Settlement Amount.

The remaining amount available to be paid to the Class Members (the “Net Settlement Amount”) will be distributed to Class Members who mail or submit online a completed valid claim form by _____, __, _____. Each Class Member who submits a valid, timely Claim Form will be entitled to receive their *pro rata* share of the Net Settlement Amount, which will be divided among Class Members who have submitted valid, timely Claim Forms based on the number of Coils they replaced up to a maximum of 3 coils. If after such distribution, as approved by the Court, there is money left over, the Court will decide how to distribute those undistributed funds.

What are my options? To receive payment, **you must mail or submit online a completed claim form by _____, __, ____.** You may object to the settlement by _____, __, _____. The specific details for filing an objection are in the detailed notice available at _____.com. The Court will hold a hearing on _____, ____ to consider the settlement and class counsel’s request for an award of attorneys’ fees of up to 33% of the settlement amount, plus expenses, as well as a service award for the plaintiff of up to \$15,000. You do not have to attend this hearing.

Your legal rights are affected whether you act or do not act. If you think you may be a Class Member, please go to _____ .com to read the full notice concerning this settlement.

DATED: _____, 2025