



Sedgwick County...
working for you

Office of the County Counselor

Justin M. Waggoner, Assistant County Counselor

525 North Main, Suite 359, Wichita, KS 67203-3790 –TEL: 316-660-9340 – FAX: 316-383-7007

January 24, 2014

Sandy Praeger
Kansas Insurance Commissioner
420 SW 9th Street
Topeka, KS 66612

Dear Commissioner Praeger:

Pursuant to K.S.A. 40-3905, this letter is intended to provide you notice that Sedgwick County has adopted a resolution under the provisions of K.S.A. 40-3902 and 40-3903 that permits the County to be the recipient of insurance proceeds to remove buildings or structures, provided that the qualifying factors in those statutes are met.

Sedgwick County enacted the aforementioned resolution as a joint ordinance and resolution with the City of Wichita, which created the Metropolitan Area Building and Construction Department. As a result, Sedgwick County essentially utilizes the same procedure as the City of Wichita. Copies of both the joint ordinance and resolution and the four (4) applicable pages of the Wichita-Sedgwick County Unified Building and Trade Code (under Article 2, Section 6) are attached.

Please feel free to contact me if you have any questions on this.

Sincerely,

A handwritten signature in blue ink that reads "Justin M. Waggoner".

Justin M. Waggoner
Assistant County Counselor

JMW/tjs
Encl.

Sec. 2.5.040. - Service of notice of violations upon persons responsible therefore; when notice to become an order.

Whenever the Director of the MABCD determines that there has been a violation of any provision of this section, he or she shall give notice to appear before the appropriate court to the person or persons responsible therefore as hereinafter provided. Such notice shall:

- (a) Be in writing;
- (b) Particularize the violations alleged to exist or to have been committed;
- (c) Provide a reasonable time for the correction of the violation particularized;
- (d) Be addressed to and served upon the owner, the operator, the occupant of the building or the responsible general contractor, or to any or all such persons having responsibility for the property; provided that such notice shall be deemed to be properly served on a person designated if a copy thereof is served upon him personally or if a copy thereof is sent by certified mail to his last known address. A general contractor may be served at the address provided on the most recent license application. Such a violation notice shall be prosecuted as a misdemeanor pursuant to Article 1.3 of this Code.

Article 2, Section 6. - RECOVERY OF PROPERTY LIENS FROM FIRE INSURANCE PROCEEDS

Sec. 2.6.010. - Scope and application.

The city is hereby authorized to utilize the procedures established by K.S.A. 40-3901 et seq., and amendments thereto, and for Sedgwick County, K.S.A 40-3903 and amendments thereto, whereby no insurance company shall pay a claim of a named insured for loss or damage to any building or other structure located within the city or county, arising out of any fire, explosion or windstorm, where the amount recoverable for the loss or damage to the building or other structure under all policies is in excess of seventy-five percent of the face value of the policy covering such building or other insured structure, unless there is compliance with the procedures set out in this section.

Sec. 2.6.020. - Lien created.

The governing bodies of the city and county hereby create a lien in favor of the city or county, within the jurisdiction of each government entity, on the proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure located within the city or county, caused by or arising out of any fire, explosion or windstorm, where the amount recoverable for all the loss or damage to the building or other structure under all policies is in excess of seventy-five percent of the face value of the policy(s) covering such building or other insured structure. The lien arises upon any unpaid tax, special ad valorem levy, or any other charge imposed upon real property, whether or not evidenced by written instrument, or such tax, levy, assessment, expense or other charge that has remained undischarged for at least

one year prior to the filing of a proof of loss.

Sec. 2.6.030. - Same—Encumbrances.

Prior to final settlement on any claim covered by Section 2.6.020 of this Code, the insurer or insurers shall contact the Office of the County Treasurer of Sedgwick County, Kansas, to determine whether any such encumbrances are presently in existence. If the same are found to exist, the insurer or insurers shall execute and transmit in an amount equal to that owing under the encumbrances a draft payable to the County Treasurer of Sedgwick County, Kansas.

Sec. 2.6.040. - Same—Pro rata basis.

Such transfer of proceeds shall be on a pro rata basis by all insurance companies insuring the building or other structure.

Sec. 2.6.050. - Procedure.

(a) When final settlement on a covered claim has been agreed to or arrived at between the named insured or insureds and the company or companies, and the final settlement exceeds seventy-five percent of the face value of the policy covering any building or other insured structure, and when all amounts due the holder of a first real estate mortgage against the building or other structure, pursuant to the terms of the policy and endorsements thereto, shall have been paid, the insurance company or companies shall execute a draft payable to the Director of Finance of the city or county in an amount equal to the sum of fifteen percent of the covered claim payment, unless the Director of the MABCD has issued a certificate to the insurance company or companies that the insured has removed the damaged building or other structure, as well as all associated debris, or repaired, rebuilt, or otherwise made the premises safe and secure.

(b) Such transfer of funds shall be on a pro rata basis by all companies insuring the building or other structure. Policy proceeds remaining after the transfer to the city or county shall be disbursed in accordance with the policy terms.

(c) Upon the transfer of funds as required by subsection (a) of this section, the insurance company shall provide the city or county with the name and address of the named insured or insureds; the total insurance coverage applicable to said building or structure, and the amount of the final settlement agreed to or arrived at between the insurance company or companies and the insured or insureds, whereupon the Director of the MABCD shall contact the named insured or insureds, by registered mail, notifying them that said insurance proceeds have been received by the city or county and apprise them of the procedures to be followed under this section.

Sec. 2.6.060. - Fund created—Deposit of moneys.

The Director of Finance for the city or county is authorized and shall create a fund to be known as the "fire insurance proceeds fund." All moneys received by the Director of Finance as provided for by this section shall be placed in said fund and deposited in an interest-bearing account.

Sec. 2.6.070. - Director of the MABCD —Investigation, removal of structure.

(a) Upon receipt of moneys as provided for by this Section, the Director of Finance for the city or county shall immediately notify the Director of the MABCD of said receipt, and transmit all documentation received from the insurance company or companies to him or her.

(b) Within twenty days of the receipt of said monies, the Director of the MABCD shall determine, after prior investigation, whether the city or county shall instigate proceedings under the provisions of K.S.A. 12-1750 et. seq., or for the county under the provisions of Sedgwick County Code Sec. 19-41 et. seq., and amendments thereto.

(c) Prior to the expiration of the twenty days established by subsection (b) of this section, the Director of the MABCD shall notify the Director of Finance of the city or county whether he or she intends to initiate proceedings under K.S.A. 12-1750 et seq., or Sedgwick County Code Sec. 19-41 et. seq., and amendments thereto.

(d) If the Director of the MABCD has determined that proceedings under K.S.A. 12-1750 et. seq., or Sec. 19-41, et. seq., and amendments thereto, shall be initiated, he or she will do so immediately but no later than thirty days after receipt of the moneys by the Director of Finance of the city or county.

(e) Upon notification of the Director of Finance of the city or county by the Director of the MABCD that no proceedings shall be initiated under K.S.A. 12-1750 et. seq., or Sec. 19-41 et. seq., and amendments thereto, the Director of Finance of the city or county shall return all such moneys received, plus accrued interest, to the insured or insureds as identified in the communication from the insurance company or companies. Such return shall be accomplished within thirty days of the receipt of the moneys from the insurance company or companies.

Sec. 2.6.080. - Removal of structure—Excess moneys.

If the Director of the MABCD has proceeded under the provisions of K.S.A. 12-1750 et. seq., or Sec. 19-41 et. seq. and amendments thereto, all moneys in excess of that which is ultimately necessary to comply with the provisions for the removal of the building or structure, less salvage value, if any, shall be paid to the insured.

Sec. 2.6.090. - Same—Disposition of funds.

If the Director of the MABCD, with regard to a building or other structure damaged by fire, explosion or windstorm, determines that it is necessary to act under K.S.A. 12-1756 or Sec. 19-41, et. seq., and amendments thereto, any proceeds received by the Director of Finance of the city or county under the authority of Section 2.6.050(a) of this Code relating to that building or other structure shall be used to reimburse the City of Wichita or Sedgwick County for any expenses incurred by the city or county in proceeding under K.S.A. 12-1756, or Sec. 19-41 et. seq. and amendments thereto. The Director of the MABCD shall be responsible for notifying the Director of Finance of the city or county the amount of these expenses incurred by the city or county. Upon reimbursement from the insurance proceeds, the Director of Finance of the city or county shall immediately effect the release of the lien resulting therefrom. Should the expenses

incurred by the city or county exceed the insurance proceeds paid over to the Director of Finance of the city or county under Section 2.6.050(a) of this Code, he or she shall publish a new lien as authorized by K.S.A. 12-1756, or Sec. 19-41, et. seq. and amendments thereto, in an amount equal to such excess expenses incurred.

Sec. 2.6.100. - Effect upon insurance policies.

This section shall not make the city or county a party to any insurance contract, nor is the insurer liable to any party for any amount in excess of the proceeds otherwise payable under its insurance policy.

Sec. 2.6.110. - Insurers—Liability.

Insurers complying with this section or attempting in good faith to comply with this section shall be immune from civil and criminal liability and such action shall not be deemed in violation of K.S.A. 40-2404 and any amendments thereto, including withholding payment of any insurance proceeds pursuant to this section, or releasing or disclosing any information pursuant to this section.

Article 2, Section 7. - CONSTRUCTION STANDARDS

Sec. 2.7.010. – Agreement to use adjoining property.

No person shall use a wall or any part of a building on adjoining property or build, remove or underpin any party wall without having first entered into a written agreement with the owner of the adjoining property. Such party agreement shall be properly recorded with the register of deeds and the building official shall be advised that such record has been duly made and recorded.

**Article 2, Section 8. – TENTS, GRANDSTANDS AND AIR-SUPPORTED
STRUCTURES USED FOR PLACES OF ASSEMBLY**

Sec. 2.8.010. – Standards adopted.

Article 32 of the Uniform Fire Code, providing standards for tents and air supported structures, as adopted by Section 15.01.010 of the Code of the City of Wichita, is by reference incorporated in and by this publication made part of this Code as fully as though set out at length in this section, and is adopted together with remaining existing ordinances contained in this Code as Article 2 of this Code.

SEDGWICK COUNTY
RESOLUTION NO. 175-2012

CITY OF WICHITA
ORDINANCE NO. 49-412

Date Adopted by City of Wichita: 12-11 2012
Date Adopted by Sedgwick County: 11-21 2012

Date Published by City of Wichita: 12-17 2012
Date Published by Sedgwick County: - - 2012

A JOINT CITY ORDINANCE AND COUNTY RESOLUTION ADOPTING THE *WICHITA-SEDGWICK COUNTY UNIFIED BUILDING AND TRADE CODE* FOR BUILDING, MECHANICAL, STRUCTURAL, PLUMBING, FUEL AND GAS, AND ELECTRICAL CODES; FOR BUILDING PLAN REVIEW; FOR APPOINTMENT OF CONSOLIDATED BOARDS TO ADVISE THE COUNCIL AND COMMISSION IN THE ADOPTION OF CODES AND REGULATIONS FOR THE CONSTRUCTION OF COMMERCIAL AND RESIDENTIAL BUILDINGS; PROVIDING FOR JURISDICTION OF ENFORCEMENT AND ESTABLISHING FINES FOR VIOLATIONS THEREOF; AND CREATING EXAMINATION AND LICENSURE STANDARDS FOR THOSE TRADES AND CONTRACTORS WITHIN THE CONFINES OF THE CITY OF WICHITA AND SEDGWICK COUNTY, KANSAS, AND INCLUDING THOSE SECOND AND THIRD CLASS CITIES LOCATED WITHIN SEDGWICK COUNTY WHICH HAVE BY ACTION OF THEIR GOVERNING BODIES ADOPTED SAID CODE APPLICABLE WITHIN THE SEDGWICK COUNTY JURISDICTION; AND THAT HAVE ENTERED INTO SEPARATE AGREEMENTS WITH SEDGWICK COUNTY PROVIDING FOR ENFORCEMENT WITHIN THEIR MUNICIPAL BOUNDARIES AND CONFERRING LEGAL JURISDICTION FOR ALL FUNCTIONS RELATING THERETO.

WHEREAS, the Governing Body of the City of Wichita is authorized by K.S.A. 12-3301, 12-3302 and 12-3009 *et. seq.*, to officially adopt, incorporate, and promulgate by ordinance codes, rules and regulations for building construction and related trades within the incorporated limits of the city; and

WHEREAS, the Board of County Commissioners is authorized by K.S.A. 12-3301 and 12-3303 *et. seq.*, to officially adopt, incorporate, and promulgate by resolution codes, rules and regulations for building construction and related trades within the confines of the county and those second and third cities that have adopted those codes, rules and regulations by action of their governing bodies and have entered into agreements related thereto; and

WHEREAS, the Board of County Commissioners of Sedgwick County, as the Governing Body of Sedgwick County, Kansas, and the City Council of the City of Wichita, as the Governing Body of the City of Wichita, have by official action in Ordinance 49-333 and

Resolution 135-2012, established and announced the joint policy and agreement to create the consolidated Metropolitan Area Building and Construction Department in order to better serve the public and to make more efficient and effective the customer service provided to all of their citizens and stakeholders; and to protect and preserve the safety and quality of the buildings and structures for human habitation and living environments; and

WHEREAS, Sedgwick County and the City of Wichita desire to create and adopt the new *Wichita-Sedgwick County Unified Building and Trade Code* for the joint adoption, creation and enforcement of codes and building trade standards, including all related activities thereto, and to establish the process of appointing members of the consolidated trade boards; and

WHEREAS, the *Wichita-Sedgwick County Unified Building and Trade Code* shall be jointly administered with the intent that the same will be adopted and maintained in substantially identical form where practicable, while considered the individual enactment of the City of Wichita or of Sedgwick County, as applicable; and that if either the City of Wichita or Sedgwick County fails to adopt a code, or a provision therein, or amends or repeals it while the other adopts, amends or maintains it in force, it shall be valid within the jurisdiction of the jurisdiction that adopted, amended or maintained it, notwithstanding its status in the other jurisdiction;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS AND ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS THAT:

SECTION 1. ADOPTION.

- A. The *Wichita-Sedgwick County Unified Building and Trade Code* is hereby adopted and incorporated herein by the Board of County Commissioners of Sedgwick County, Kansas, as the official code for building, mechanical, structural, plumbing, fuel and gas, and electrical codes; and all related building plan review, establishing the process for appointing members to the consolidated advisory boards, setting examination and licensing standards, creating building and permit fees, enforcement procedures and fines, and related functions thereto, as more specifically defined therein, within the Sedgwick County Jurisdiction and unincorporated confines thereof, and including those second and third class cities located within Sedgwick County which have by action of their governing bodies adopted said code and have entered into separate agreements with Sedgwick County providing for enforcement within their municipal boundaries and conferring legal jurisdiction for all functions relating thereto.
- B. The *Wichita-Sedgwick County Unified Building and Trade Code* is hereby adopted and incorporated herein by the City Council of the City of Wichita, as the Governing Body of the City of Wichita, as the official code for building, mechanical, structural, plumbing, fuel and gas, and electrical codes; and all related building plan review, establishing the process for appointing members to the consolidated advisory boards, setting examination and licensing standards, creating building and

permit fees, enforcement procedures and fines, and related functions thereto, as more specifically defined therein, within the City of Wichita Jurisdiction and the incorporated city limits thereof.

SECTION 2. EFFECTIVE DATE.

The effective date of the *Wichita-Sedgwick County Unified Building and Trade Code* shall be January 1, 2013.

SECTION 3. ENFORCEMENT.

The *Metropolitan Area Building and Construction Department* ("MABCD") is hereby authorized to enforce the *Wichita-Sedgwick County Unified Building and Trade Code* and all related functions set forth and defined therein, within the incorporated confines of the City of Wichita, and the unincorporated confines of Sedgwick County, Kansas and those second and third class cities located within Sedgwick County which have by action of their governing bodies adopted the *Wichita-Sedgwick County Unified Building and Trade Code* and that and that have entered into separate agreements with Sedgwick County providing for enforcement within their municipal boundaries.

SECTION 4. SEVERABILITY.

If any provision or section of the *Wichita-Sedgwick County Unified Building and Trade Code*, incorporated herein, is deemed or ruled unconstitutional or otherwise illegal or invalid by any court of competent jurisdiction, such illegality shall not affect any other provision of said code. The *Wichita-Sedgwick County Unified Building and Trade Code* shall be construed and enforced as if such illegal or invalid provision had not been contained herein.

SECTION 5. EFFECT.

This joint Resolution and Ordinance shall take effect and be in force upon the adoption and publication once in the official County and City newspaper.

Commissioners present and voting were:

DAVID M. UNRUH	<u>Aye</u>
TIM R. NORTON	<u>Aye</u>
KARL PETERJOHN	<u>Aye</u>
RICHARD RANZAU	<u>Aye</u>
JAMES B. SKELTON	<u>Aye</u>

Dated this 21 day of November, 2012.

ATTEST:


KELLY B. ARNOLD, County Clerk




BOARD OF COUNTY COMMISSIONERS
OF SEDGWICK COUNTY, KANSAS



TIM R. NORTON, Chairman
Commissioner, Second District



JAMES B. SKELTON, Chair Pro Tem
Commissioner, Fifth District

APPROVED AS TO FORM:


BILL H. RAYMOND
Assistant County Counselor


DAVID M. UNRUH
Commissioner, First District

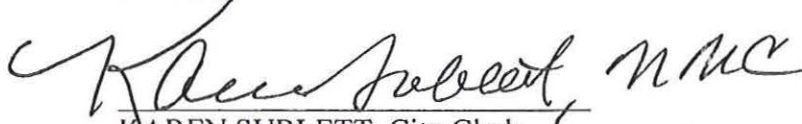

KARL PETERJOHN
Commissioner, Third District


RICHARD RANZAU
Commissioner, Fourth District

PASSED by the governing body of the CITY OF WICHITA, KANSAS, this 11th
day of December, 2012.


CARL BREWER, Mayor

ATTEST:


KAREN SUBLETT, City Clerk



APPROVED AS TO FORM:


GARY L. REBENSTORF
Director of Law

AFFIDAVIT

STATE OF KANSAS

- SS.

County of Sedgwick

Mark Fletchall, of lawful age, being first duly sworn, deposeth and saith: That he is Record Clerk of The Wichita Eagle, a daily newspaper published in the City of Wichita, County of Sedgwick, State of Kansas, and having a general paid circulation on a daily basis in said County, which said newspaper has been continuously and uninterruptedly published in said County for more than one year prior to the first publication of the notice hereinafter mentioned, and which said newspaper has been entered as second class mail matter at the United States Post Office in Wichita, Kansas, and which said newspaper is not a trade, religious or fraternal publication and that a notice of a true copy is hereto attached was published in the regular and entire Morning issue of said 'The Wichita Eagle' for 1 issues, that the first publication of said notice was

made as aforesaid on the 17th of

December A.D. 2012, with


subsequent publications being made on the following dates:

And affiant further says that he has personal knowledge of the statements above set forth and that they are true.

Mark Fletchall

Subscribed and sworn to before me this

17th day of December, 2012

 **PENNY L. CASE**
Notary Public - State of Kansas
My Appt. Expires 5/28/2014

Penny L. Case
Notary Public Sedgwick County, Kansas

Printer's Fee : \$132.60

LEGAL PUBLICATION

PUBLISHED IN THE WICHITA EAGLE
DECEMBER 17, 2012 (3222548)

SEDGWICK COUNTY

RESOLUTION NO. 175-2012

CITY OF WICHITA

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A JOINT CITY ORDINANCE AND

COUNTY RESOLUTION ADOPTING

THE WICHITA-SEDGWICK COUNTY

UNIFIED BUILDING AND TRADE

CODE FOR BUILDING, MECHANICAL,

STRUCTURAL, PLUMBING, FUEL

AND GAS, AND ELECTRICAL CODES;

FOR BUILDING PLAN REVIEW; FOR

APPOINTMENT OF CONSOLIDATED

BOARDS TO ADVISE THE COUNCIL AND

COMMISSION IN THE ADOPTION OF

CODES AND REGULATIONS FOR THE

CONSTRUCTION OF COMMERCIAL AND

RESIDENTIAL BUILDINGS; PROVIDING

FOR JURISDICTION OF ENFORCEMENT

AND ESTABLISHING FINES FOR

VIOLATIONS THEREOF; AND CREATING

EXAMINATION AND LICENSURE

STANDARDS FOR THOSE TRADES AND

CONTRACTORS WITHIN THE CONFINES

OF THE CITY OF WICHITA AND SEDGWICK

COUNTY, KANSAS, AND INCLUDING

THOSE SECOND AND THIRD CLASS

CITIES LOCATED WITHIN SEDGWICK

COUNTY WHICH HAVE BY ACTION OF

THEIR GOVERNING BODIES ADOPTED

SAID CODE APPLICABLE WITHIN THE

SEDGWICK COUNTY JURISDICTION; AND

THAT HAVE ENTERED INTO SEPARATE

AGREEMENTS WITH SEDGWICK COUNTY

PROVIDING FOR ENFORCEMENT WITHIN

THEIR MUNICIPAL BOUNDARIES AND

CONFERRING LEGAL JURISDICTION FOR

ALL FUNCTIONS RELATING THERETO.

WHEREAS, the Governing Body of the City of Wichita is authorized by K.S.A. 12-3301, 12-3302 and 12-3307 et. seq. to officially adopt, incorporate, and promulgate by ordinance codes, rules and regulations for building construction and related trades within the incorporated limits of the city; and

WHEREAS, the Board of County Commissioners is authorized by K.S.A. 12-3301 and 12-3303 et. seq. to officially adopt, incorporate, and promulgate by resolution codes, rules and regulations for building construction and related trades within the confines of the county and those second and third class cities that have adopted those codes, rules and regulations by action of their governing bodies and have entered into agreements related thereto; and

WHEREAS, the Board of County Commissioners of Sedgwick County, as the Governing Body of Sedgwick County, Kansas, and the City Council of the City of Wichita, as the Governing Body of the City of Wichita, have by official action in Ordinance 49-333 and Resolution 135-2012, established and announced the joint policy and agreement to create the consolidated Metropolitan Area Building and Construction Department in order to better serve the public and to make more efficient and effective the customer service provided to all of their citizens and stakeholders; and to protect and preserve the safety and quality of the buildings and structures for human habitation and living environments; and

WHEREAS, Sedgwick County and the City of Wichita desire to create and adopt the new Wichita-Sedgwick County Unified Building and Trade Code for the joint adoption, creation and enforcement of codes and building trade standards, including all related activities thereto, and to establish the process of appointing members of the consolidated trade boards; and

WHEREAS, the Wichita-Sedgwick County Unified Building and Trade Code shall be jointly administered with the intent that the same will be adopted and maintained in substantially identical form where practicable, while considered the individual enactment of the City of Wichita or of Sedgwick County, as applicable; and that if either the City of Wichita or Sedgwick County fails to adopt a code, or a provision therein, or amends or repeals it while the other adopts, amends or maintains it in force, it shall be valid within the jurisdiction of the jurisdiction that adopted, amended or maintained it, notwithstanding its status in the other jurisdiction;

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advisory boards, setting examination and licensing standards, creating building and permit fees, enforcement procedures and fines, and related functions thereto, as more specifically defined therein, within the Sedgwick County Jurisdiction and unincorporated confines thereof, and including those second and third class cities located within Sedgwick County which have by action of their governing bodies adopted said code and have entered into separate agreements with Sedgwick County providing for enforcement within their municipal boundaries and conferring legal jurisdiction for all functions relating thereto.

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SECTION 4. SEVERABILITY.

If any provision or section of the Wichita-Sedgwick County Unified Building and Trade Code, incorporated herein, is deemed or ruled unconstitutional or otherwise illegal or invalid by any court of competent jurisdiction, such illegality shall not affect any other provision of said code. The Wichita-Sedgwick County Unified Building and Trade Code shall be construed and enforced as if such illegal or invalid provision had not been contained herein.

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This Joint Resolution and Ordinance shall take effect and be in force upon the adoption and publication once in the official County and City newspaper.

Commissioners present and voting were:

DAVID M. UNRUH

TIM R. NORTON

KARL PETERJOHN

RICHARD RANZAU

JAMES B. SKELTON

Dated this 21st day of November, 2012.

BOARD OF COUNTY
COMMISSIONERS OF
SEDGWICK COUNTY, KANSAS

ATTEST:

KELLY B. ARNOLD,
County Clerk

APPROVED AS TO FORM:

BILL K. RAYMOND
Assistant County Counselor

KARL PETERJOHN

Commissioner, Third District

RICHARD RANZAU

Commissioner, Fourth District

PASSED by the governing body of the CITY OF WICHITA, KANSAS, this 11th day of December, 2012.

ATTEST:

KAREN SUBLETT, City Clerk

APPROVED AS TO FORM:

GARY E. REBENSTORF
Director of Law

CARL BREWER, Mayor