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MCDOWELL, RICE, SMITH & GAAR
DRAFT NO. 1, MAY 23, 2002

**RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:**

Norman E. Gaar
McDowell, Rice, Smith & Gaar
a Professional Corporation
7101 College Boulevard, Suite 200
Overland Park, Kansas 66210
(913) 338-5400

COMMUNICATION LEASE

By and Between

**OVERLAND PARK DEVELOPMENT CORPORATION
as Lessor**

and

The City of

**OVERLAND PARK, KANSAS
as Lessee**

Dated as of _____, _____

COMMUNICATION LEASE

THIS COMMUNICATION LEASE dated as of _____, _____ (the "Communication Lease"), by and between the OVERLAND PARK DEVELOPMENT CORPORATION, a Kansas not-for-profit public benefit corporation (the "Corporation") and CITY OF OVERLAND PARK, KANSAS, a municipal corporation and city of the first class (the "City").

WITNESSETH:

WHEREAS, the City has fee simple title to certain real estate (the "Site"), as more particularly described on Exhibit A attached hereto; and

WHEREAS, the Corporation is an instrumentality of the City within the meaning of the Internal Revenue Code of 1986, as amended; and

WHEREAS, the Corporation was formed for the specific and sole purpose to aid, assist and foster the planning, designing, development, supervision, construction, furnishing, equipping, management, operation and improvement of a convention center hotel in the City and to engage in such activities as may be necessary or advisable in connection therewith; and

WHEREAS, the City has appointed the Corporation as its agent for the purpose of planning, designing, developing, supervising, constructing, furnishing, equipping and opening a convention center hotel (the "Hotel") to be located on the Site (together with the Site, the "Project," and upon completion of the Project, the "Hotel"); and

WHEREAS, the City has entered into a Ground Lease with the Corporation to transfer a leasehold interest in the Site to the Corporation; and

WHEREAS, the Corporation proposes to lease back to the City a specific location (the "Equipment Location") in the Hotel constructed on the Site more particularly described on Exhibit B attached hereto for the purpose of locating, attaching and maintaining radio, telephonic, electronic and video transmitting, repeating, amplifying and receiving equipment, antennas, transformers and all necessary electrical, electronic and cable connectors necessary or convenient for the placement and operation of the equipment (the "Communications Equipment"); and

NOW, THEREFORE, IT IS HEREBY MUTUALLY AGREED BY THE PARTIES, AS FOLLOWS:

Section 1. Definitions of Words and Terms. In addition to any words and terms defined elsewhere in this Communication Lease, capitalized words and terms used in this Communication Lease shall have the meanings given to such words and terms in the

document entitled "Master Definitions for Overland Park Development Corporation (Overland Park Convention Center Hotel Project) Revenue Bonds Series 2000," the first and last pages of which are attached hereto identified as Exhibit C, with said document being incorporated herein by this reference.

Section 2. Rules of Interpretation.

- (a) Unless the context shall otherwise indicate, words importing the singular number shall include the plural and vice versa and words importing persons shall include firms, associations and corporations, including public bodies, as well as natural persons.
- (b) All references in this Communication Lease to designated "Articles," "Sections" and other subdivisions are, unless otherwise specified, to the designated Articles, Sections and subdivisions of this instrument as originally executed. The words "herein," "hereof," "hereunder" and other words of similar import refer to this Communication Lease as a whole and not to any particular Article, Section or other subdivision.

Section 3. Granting of Leasehold Estate. The Corporation hereby leases to the City, and the City hereby rents and leases from the Corporation, the Equipment Location, subject to any appurtenances, easements, covenants and restrictions of records, on the terms and conditions hereinafter set forth.

Section 4. Communication Lease Term. This Communication Lease shall become effective upon its delivery and shall terminate on the date and until all bonds are paid or defeased (the "Communication Lease Term").

Section 5. Purpose. The City shall use the Equipment Location solely for the purpose of constructing, furnishing, equipping, management, operation and improvement of the Communications Equipment and engaging in such activities as may be necessary, convenient or advisable in connection therewith.

Section 6. Rental; Disposition of Rental. The City shall pay to the Corporation as and for the rental due hereunder the following (the "Communication Lease Payments"):

<u>Year</u>	<u>Communication Lease Payment</u>
	One dollar (\$1)

Section 7. Lessor. The Corporation covenants that it is lawfully seized of a good and marketable Leasehold Estate in the Equipment Location, subject to any appurtenances, easements, covenants and restrictions of record and has the full right and title to enter into the Communication Lease.

Section 8. Fee Mortgage. The Corporation acknowledges that the City has subordinated its fee interest in the Equipment Location through the grant of a mortgage on its fee interest in the Site pursuant to the Subordination of Fee Interest and Mortgage Agreement dated as of December 1, 2000 (the "Fee Mortgage") to secure the obligations of the Corporation under the Leasehold Mortgage (as defined below), the Series 2000 Bonds and the Indenture.

Section 9. Subordination. The City, for valuable consideration, does hereby subordinate all of its rights and interests under this Communication Lease to the rights and interests of US Bank, successor to Firststar Bank, N.A., as trustee (the "Trustee"), under the Trust Indenture dated as of December 1, 2000 (the "Indenture") by and between the Trustee and the Corporation and the Leasehold Mortgage dated as of December 1, 2000 (the "Leasehold Mortgage"), executed by the Corporation in favor of the Trustee for the benefit of the owners of the Series 2000 Bonds.

Section 10. Assignment and Subleases. The Corporation has assigned its right, title and interest in and under the Ground Lease to the Trustee and the Subordinate Trustee pursuant to the Assignment Agreement. The City may not assign its rights under this Communication Lease or sublet the Equipment Location without the written consent of the Corporation.

Section 11. Termination. Upon termination of this Communication Lease the Corporation agrees to deed to the City all of its right, title and interest, if any, in the Equipment Location.

Section 12. Default of the Corporation. The City shall have the right to exclude the Corporation from the Equipment Location or take possession of the Equipment Location or to terminate this Communication Lease prior to the expiration of its term upon any default by the Corporation hereunder. However, in the event of any default by the Corporation hereunder, the City may maintain an action for damages or, if permitted in equity, for specific performance.

Section 13. Default of the City. In the Debt Service Support Agreement, the City has covenanted and agreed to recommend an appropriation of its TGT revenues in its annual budget submission until such time as Stabilization shall have been achieved. Failure to recommend an appropriation of TGT in the City's annual budget prior to Stabilization having been achieved shall constitute an Event of Default pursuant to this Communication Lease. If such an Event of Default occurs, the Communication Lease Payments set forth in Section 6 hereof shall nevertheless continue for the remaining term of this Communication Lease. All obligations of the City under this Communication

Lease shall remain in full force and effect irrespective of the occurrence of such Event of Default.

Section 14. Quiet Enjoyment. The City shall at all times during the Communication Lease Term peaceably and quietly have, hold and enjoy all of the Equipment Location, subject to the terms of the Communication Lease, the Hotel Operating Agreement and the Indentures.

Section 15. Taxes. The City covenants and agrees to pay any and all assessments of any kind or character and also all taxes levied or assessed upon the Equipment Location as provided in the Indenture.

Section 16. Insurance. The City covenants and agrees to cause the Communications Equipment to be insured.

Section 17. Maintenance of the Communications Equipment. The City covenants and agrees to cause the Communications Equipment to be maintained in proper working order.

Section 18. Waiver of Personal Liability. All liabilities under this Communication Lease on the part of the City are solely liabilities of the City and, to the extent permitted by law, the Corporation hereby releases each and every officer, agent and employee of the City of and from any personal or individual liability under this Communication Lease. No officer, agent or employee of the City shall at any time or under any circumstances be individually or personally liable under this Communication Lease for anything done or omitted to be done by the City hereunder.

All liabilities under this Communication Lease on the part of the Corporation are solely liabilities of the Corporation and, to the extent permitted by law, the City hereby releases each and every officer, agent and employee of the Corporation of and from any personal or individual liability under this Communication Lease. No officer, agent or employee of the Corporation shall at any time or under any circumstances be individually or personally liable under this Communication Lease for anything done or omitted to be done by the Corporation hereunder.

Section 19. Eminent Domain. In the event the whole or any part of the Equipment Location is taken by eminent domain proceedings, the interest of the City shall be recognized and any proceeds from any insurance or condemnation awards will be used in accordance with the terms of the Indenture.

Section 20. Granting of Easements. The City may at any time or times with the written approval of the Trustee and the Corporation (a) grant easements, licenses, rights-of-way and other rights or privileges in the nature of easements with respect to any property included in the Equipment Location, or (b) release existing easements, licenses, rights-of-way and other rights or privileges, all with or without consideration and upon such

terms and conditions as the City shall determine. The City agrees that it will execute and deliver and will cause and direct the Trustee to execute and deliver any instrument necessary or appropriate to confirm and grant or release any such easement, license, right-of-way or other right or privilege or any such agreement or other arrangement, upon receipt by the Corporation and the Trustee of: (a) a copy of the instrument of grant or release or of the agreement or other arrangement, (b) a written application signed by the Authorized Corporation Representative requesting such instrument; and (c) a certificate executed by an Authorized Corporation Representative stating that such grant or release is not detrimental to the proper conduct of the business of the Corporation, will not impair the effective use or interfere with the efficient and economical operation of the Hotel, will not conflict with the terms of the Indenture or the Hotel Operating Agreement, and will not materially adversely affect the security given by or under the Indenture. If the instrument of grant shall so provide, any such easement or right and the rights of such other parties thereunder shall be superior to the rights of the Corporation and the Trustee under the Indenture and shall not be affected by default on the part of the City hereunder. Any payments or other consideration received by the City for any such grant or with respect to or under any such agreement or other arrangement shall be and remain the property of the City.

Section 21. Amendment of Communication Lease. This Communication Lease can be amended by agreement of the Corporation and the City without the consent of the Trustee so long as the amendment of the Communication Lease does not, in the opinion of Bond Counsel, materially, adversely affect the security for the Bonds or conflict with the provisions of the Hotel Operating Agreement.

Section 22. Partial Invalidity. If any one or more of the terms, provisions, covenants or conditions of this Communication Lease shall to any extent be declared invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, the finding, order or decree of which becomes final, none of the remaining terms, provisions, covenants and conditions of this Communication Lease shall be affected thereby and each provision of this Communication Lease shall be valid and enforceable to the fullest extent permitted by law.

Section 23. Notices. All written notices to be given under this Communication Lease shall be given in the manner and to the Corporation, the City and to the Trustee at their addresses set forth in the Indenture, or at such address as they may provide to the other parties in writing from time to time.

Section 24. Section Headings. All section headings contained herein are for convenience of reference only and are not intended to define or limit the scope of any provision of this Communication Lease.

Section 25. Execution in Counterparts. This Communication Lease may be executed simultaneously in any number of counterparts, each of which shall be deemed to be an original and all of which shall constitute but one and the same instrument. It is also agreed that separate counterparts of this Communication Lease may separately be executed

by the City and the Corporation, all with the same force and effect as though the same counterpart had been executed by both the City and the Corporation.

Section 26. Binding Effect. This Communication Lease shall be binding upon and shall inure to the benefit of the Corporation and the City and their respective successors and assigns.

Section 27. Governing Law. This Communication Lease shall be construed in accordance with and governed by the laws of the State of Kansas.

IN WITNESS WHEREOF, the parties hereto have caused this Communication Lease to be executed in their respective names and their respective seals to be hereunto affixed and attested by their duly authorized officers, all as of the date first above written.

THIS COMMUNICATION LEASE is hereby executed as of the date first hereinabove written.

CITY OF OVERLAND PARK, KANSAS

By: _____
Ed Eilert
Mayor

(SEAL)

ATTEST:

Marian Cook
City Clerk

APPROVED AS TO FORM:

John S. Anderson
Contract Attorney for the City of
Overland Park, Kansas

THIS COMMUNICATION LEASE is hereby executed as of the date first hereinabove written.

OVERLAND PARK DEVELOPMENT CORPORATION

By: _____
Neil S. Sader
President

(SEAL)

ATTEST:

Secretary

ACKNOWLEDGMENT

STATE OF KANSAS)
) SS:
CITY OF JOHNSON)

BE IT REMEMBERED that on this _____ day of _____, _____, before me, the undersigned, a Notary Public in and for the State and County aforesaid, came Ed Eilert, Mayor of the City of Overland Park, Kansas, a municipal corporation duly organized and validly existing under the laws of the State of Kansas, and Marian Cook, City Clerk of said City, who are personally known to me to be the same persons who executed the foregoing instrument of writing as such officials, and said Ed Eilert as Mayor of said City, duly acknowledged the execution of the same to be the act of the City; and Marian Cook, as City Clerk of said City, duly acknowledged the attestation of the same for and on behalf of said City, and affixed thereto the seal of the City.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, the day and year last above written.

Notary Public

My Commission Expires:

ACKNOWLEDGMENT

STATE OF KANSAS)
) SS:
CITY OF JOHNSON)

BE IT REMEMBERED that on this _____ day of _____, _____, before me, the undersigned, a Notary Public in and for the State and County aforesaid, came Neil S. Sader, President of the Overland Park Development Corporation, a not-for-profit public benefit corporation duly organized and validly existing under the laws of the State of Kansas, and _____, Secretary of said corporation, who are personally known to me to be the same persons who executed the foregoing instrument of writing as such officers, and said Neil S. Sader, as President of said corporation, duly acknowledged the execution of the same to be the act of the corporation; and _____, as Secretary of said corporation, duly acknowledged the attestation of the same for and on behalf of said corporation and affixed thereto the seal of the corporation.

IN TESTIMONY WHEREOF, I have hereunto subscribed by name and affixed my official seal, the day and year last above written.

Notary Public

My Commission Expires:

CONSENT

The Sheraton Operation Corporation (the "Operator") hereby consents to the terms of this Communication Lease for the consideration that both parties thereto shall hold it, its officers, agents or employees harmless from all actions direct or indirect by either the City or the Corporation or their officers, agents or employees stemming from the implementation of the aforesaid Communications Lease.

This Consent is hereby executed as of the day and year first hereinabove written.

SHERATON OPERATING CORPORATION
a Delaware Corporation

By: _____
Name: _____
Its: Duly authorized signatory

EXHIBIT A

THE SITE

The following described real property situated in Johnson County, Kansas:

Lot 2, Convention Center Plaza, a subdivision of land in the City of Overland Park, Johnson County, Kansas.

EXHIBIT B

EQUIPMENT LOCATION

Main Hotel telephone equipment room AA04 on level 130.

Hotel electrical/mechanical room 2101 at the roof level and roof.

Main Convention Center telephone equipment room J212 on level 125.

Cable trays and cable locations connecting all equipment.

EXHIBIT C

MASTER DEFINITIONS