

## REAL ESTATE PURCHASE AGREEMENT

The undersigned, the CITY OF WATERTOWN (the “Seller”), hereby agrees to sell to WATERTOWN DEVELOPMENT COMPANY (the “Purchaser”), together the “Parties,” the real property situated in Watertown, Codington County, South Dakota, and being generally described as:

**LOTS 1 AND 2 AND EAST 10 FEET OF LOT 3 AND WEST 6.9 FEET SECOND STREET ABUTTING LOT 1 BLOCK 3 OF ORIGINAL PLAT FOR THE CITY OF WATERTOWN, CODINGTON COUNTY, SOUTH DAKOTA**

subject to any recorded or visible easements and reservations of record (the “Property”), according to the terms and conditions contained in this Agreement. As a condition of this offer, the legal description of the Property is subject to confirmation and, if necessary, confirmation to the actual legal description upon surveying of the Property as contained in a commitment for title insurance on the Property, which commitment is further described below.

Seller hereby agrees to sell the Property to Purchaser for the sum of One Dollar (\$1.00) and other good and valuable considerations, subject to the following:

1. This Purchase Agreement is being entered into pursuant to *SDCL §9-27-36*, which authorizes Seller to sell, on a negotiated basis, and to convey, any of its real property to Purchaser, a nonprofit local industrial development corporation as defined by *SDCL §9-27-37*, to be used by Purchaser for an economic development related purpose as enumerated in *SDCL §9-54-1*.
2. This Purchase Agreement has been authorized according to its terms and in the manner provided by the duly adopted motion of the Watertown City Council. The Parties agree that on or after September 1, 2025 and before October 1, 2025, Seller will convey title in fee to Purchaser. Purchaser, as subsequent seller, will thereafter convey the above-described property to AirStay Watertown LLC “Buyer”, according to the Real Estate Purchase Agreement substantially in the form of Exhibit 1 attached hereto and, by this reference, incorporated herein.
3. Purchaser and Seller understand and agree that the Buyer’s intended purpose for the property consists of the development of a downtown hotel and corresponding parking in Watertown, South Dakota, in accordance with all applicable zoning regulations and other applicable city ordinances. The transfer and ultimate purchase by Buyer is contingent upon Buyer obtaining a conditional use permit from the City for the Buyer’s intended development of the real estate. Any fees associated with any required approvals under the applicable zoning regulations, building permits, and other applicable ordinances shall be at Buyer’s cost and expense.

4. If the transaction described in the attached Exhibit 1 is not closed and is terminated for any reason, then the Seller herein is permitted to reacquire from the Purchaser herein upon the payment of \$1.00 by the Seller herein to the Purchaser herein along with any funds already paid by Purchaser related to title work, closing fees, transfer fees and reasonable attorney fees incurred by WDC not to exceed \$1,500.
5. As a condition of the conveyance of the Property, the Purchaser (WDC) shall require Buyer, AirStay Watertown LLC, to obtain and deliver to the City of Watertown (City), prior to the execution of the transfer, a Performance and Completion Bond in the amount of Three Hundred Thousand Dollars (\$300,000) issued by a surety licensed to do business in South Dakota. The bond shall guarantee that AirStay Watertown LLC will:
  - A. Commence construction of the hotel within 1 month of transfer of title, and
  - B. Substantially complete construction of the hotel within twenty-four (24) months from the effective date of closing.
  - C. In the event AirStay Watertown LLC fails to complete the project within the required timeframe, and after 30 days' notice and opportunity to cure, the City shall be entitled to make a claim against the bond. The proceeds may be used, at the City's discretion, to complete construction, secure or demolish any partially completed structure, or otherwise address public safety and land use concerns.
  - D. The bond shall name the City of Watertown as the Obligee and remain in full force and effect until the project is deemed substantially complete and a certificate of occupancy is issued by the City of Watertown.
6. WDC, as Purchaser, has no obligations to provide funding or assistance with this project to Seller or Buyer. WDC has no obligation to determine the sufficiency of the bond or monitor the compliance of AirStay Watertown LLC with the terms of its obligations. WDC also has no obligation to make a claim against the bond if Airstay Watertown LLC has not complied with the terms of its obligation. The City is solely responsible for these issues.
7. WDC shall have as a condition of its purchase agreement that closing shall not occur until after 11:59 p.m. on August 31, 2025 and on or before October 1, 2025.
8. This Purchase Agreement is not based upon any inspections having been made of the Property, nor is this Purchase Agreement based upon any representations made by Seller to the Purchaser. Purchaser is buying the Property "AS IS." Seller shall convey the Property by Quit Claim Deed. Purchaser is aware of the mold in the basement of the current building and any demolition

involving hazardous materials and/or abatement of the mold or asbestos shall be the responsibility of Buyer and a condition of sale by Purchaser, as seller, to AirStay Watertown LLC.

The closing date of this transaction will occur between September 1 and on or before October 1, 2025. Purchaser shall remit the compensation from land sale proceeds to Purchaser less itemized closing costs, including reasonable attorney's fees and title work associated with the transaction that are borne by Purchaser pursuant to the terms of the Real Estate Purchase Agreement attached as Exhibit 1 not to exceed \$1,500. It is the Parties intention to pass any reasonable attorney's fees and title work and closing costs onto the buyer as a condition of the sale.

Dated this \_\_\_\_\_ day of June, 2025.

PURCHASER:

WATERTOWN DEVELOPMENT COMPANY

By: \_\_\_\_\_  
Christopher Clifton  
Executive Director

SELLER:

CITY OF WATERTOWN

By: \_\_\_\_\_  
Kristen Bobzien  
Interim City Manager

ATTEST:

\_\_\_\_\_  
Jennifer Collins  
Records and Licensing Manager

## EXHIBIT 1

THIS DOCUMENT PREPARED BY:  
LISA CARRICO, CITY ATTORNEY  
23 2<sup>ND</sup> STREET NE  
WATERTOWN, SD 57201  
PHONE: 605-886-6200

### **REAL ESTATE PURCHASE AGREEMENT**

1. **PARTIES:**

The parties to this contract are WATERTOWN DEVELOPMENT COMPANY, of 1 East Kemp, PO Box 332, Watertown, South Dakota 57201, "Seller, or Sellers," and AIRSTAY WATERTOWN LLC, a South Dakota limited liability company, at 17 2<sup>nd</sup> Avenue SW, Watertown, South Dakota 57201, "Buyer."

2. **PURPOSE:**

The purpose of this contract is to fix the terms and conditions under which the Seller agrees to sell, and the Buyer agrees to buy the real property described in Section 3.

3. **PROPERTY:**

The property to be covered by this contract is commercial property located in Codington County, South Dakota. The Property to be purchased is that area outlined in blue in the attached Exhibit A, consisting of approximately .23 acres of commercial real property, formerly used as City Hall, with the following legal description:

**LOTS 1 AND 2 AND EAST 10 FEET OF LOT 3 AND WEST 6.9 FEET SECOND STREET ABUTTING LOT 1 BLOCK 3 OF ORIGINAL PLAT FOR THE CITY OF WATERTOWN, CODINGTON COUNTY, SOUTH DAKOTA**

4. **EARNEST MONEY DEPOSIT:**

Buyer shall deposit with Codington County Title within five (5) business days following Seller's acceptance of Buyer's offer herein, earnest money in the sum of \$1,500.00. The earnest money shall be applied to the

Seller's closing costs or, if the purchase fails to close for any reason, the earnest money shall be immediately refunded to the Buyer.

5. CONSIDERATION:

As total consideration for the property described in Section 3, the Buyer agrees to pay the sum of One Dollar (\$1.00) for the Property purchased pursuant to Section 3 above, to be paid in cash, a bank cashier's check, or wire-transferred funds at closing.

6. POSSESSION:

The Buyer shall be entitled to possession of the Property at Closing which shall not occur until on or after September 1, 2025 and on or before October 1, 2025 to allow the current occupant, the City of Watertown, sufficient time to vacate the building.

7. TAXES:

Real estate taxes and special assessments shall be prorated to date of closing, with the Seller paying the unpaid real estate taxes for the period prior to closing, and any special assessments due and payable prior to closing, if any. Buyer shall be responsible to pay all real estate taxes for the period commencing on the date of closing, and any special assessments due and payable after the date of closing, if any. The real estate tax payment shall be settled by allowing the Buyer a credit, if any, based upon the amount of the real estate taxes for the year in which closing occurs, at the time of closing.

8. TITLE:

The Seller warrants that it has good and marketable title to the property described in Section 3 hereof. Buyer will order an owner's title insurance commitment in the amount of the purchase price and the Seller will promptly take proper steps to overcome any legal and valid objections to the title. The Seller, shall deliver to Buyer written notice that either (1) Seller will, at its cost and expense, attempt to remove the exceptions to which Buyer has reasonably objected on or before the closing or (2) Seller is unwilling or unable to remove any such exception to title or correct other matters; provided, however, the Seller shall not have any election rights with respect to any lien or judgment securing an indebtedness of any ascertainable amount created or permitted by Seller, and Seller, in such event shall cause any such lien or judgment to be released at or prior to the final payment from Buyer. If Seller is unable or unwilling to remove any of Buyer's objections to the status of the title described in the commitment for title insurance, Buyer may either (1) purchase the Property subject to such objection(s) or (2) terminate this Agreement. The title insurance commitment shall show insurable title of record in the name of the Seller, free and clear of all liens and encumbrances, subject to recorded or visible easements and reservations of record provided said easements and reservations do not conflict with the existing use of the property as commercial property, if any. Seller shall convey to Buyer good and marketable title to the property to enable the Buyer's title insurance

company to issue a full coverage, standard, revised ALTA Owner's Policy of Title Insurance in the face amount of the purchase price, subject to its standard exceptions and any further exceptions and encumbrances which do not interfere with or restrict the existing use of the property, and subject to liens or encumbrances suffered by the Buyer. The cost of the title insurance will be paid by Buyer.

9. CLOSING:

A closing shall be held between September 1 and October 1, 2025, unless the parties agree, in writing, to a delay or there are title issues preventing a timely closing. At the closing, the Buyer shall pay to the Seller the purchase price, and the Seller shall deliver a Warranty Deed with any applicable transfer fee paid. The closing will be held at Codington County Title in Watertown, South Dakota. The closing fee charged by Codington County Title will be paid by the Buyer. The Buyer is responsible for all deed recording costs, including the deed conveying title from the City to the WDC, and any surveying costs, if applicable, or required by Buyer's lender. If an appraisal is required for any reason, the Buyer is responsible for scheduling said appraisal and the costs associated therewith.

Airstay Watertown LLC agrees to reimburse WDC for all legal and accounting fees associated with facilitating this transaction not to exceed \$1,500 which will be paid at closing. AirStay Watertown LLC agrees to reimburse WDC for all reasonable and applicable legal and accounting fees associated with any future dispute with the City of Watertown involving this transaction where WDC is required to employ an attorney or accountant. Those charges will be paid by Airstay Watertown LLC at such time as presented with an invoice.

10. CONTINGENCY:

THIS REAL ESTATE PURCHASE AGREEMENT IS CONTINGENT ON THE FOLLOWING:

- A. The closing is contingent on the Buyer obtaining a conditional use permit before the appropriate regulatory authority for the City of Watertown to construct and operate a downtown hotel.
- B. The closing is contingent upon Seller acquiring fee simple ownership of the Property listed in Section 3 above from the City of Watertown. If the City of Watertown does not convey title to the Seller for purposes of this Agreement, this Agreement shall be deemed to be null and void.
- C. The closing is contingent upon Buyer obtaining a performance and completion bond in accordance with Section 11 of this Agreement.

11. BUYER'S PERFORMANCE AND COMPLETION BOND REQUIREMENT:

As a condition of the conveyance of the above-described property ("Property"), the Buyer shall obtain and deliver to the City of Watertown, prior to the execution of the deed by WDC as Seller to Buyer, a Performance and Completion Bond in the amount of Three Hundred Thousand Dollars (\$300,000) issued by a surety licensed to do business in the State of South Dakota. The bond shall guarantee that the Buyer will:

- A. Commence construction of the hotel improvements on the Property within 1 month of the effective date of the deed of conveyance, and
- B. Substantially complete construction of the hotel within twenty-four (24) months from the date of closing.
- C. The terms of the bond required by Buyer shall provide that in the event that the Buyer fails to meet the deadlines set forth above, and following written notice from the City of Watertown and an opportunity to cure within thirty (30) days, the City of Watertown shall be entitled to make a claim under the bond. The proceeds of the bond may be used, at the City's sole discretion, to:
  - 1. Complete construction of the improvements;
  - 2. Secure or demolish any partially completed structure; and/or
  - 3. Address public safety, health, or land use concerns associated with the failure to complete the project.
- D. The bond shall name the City of Watertown as Obligee and name the developer as AirStay Watertown LLC. The surety must be licensed to issue bonds in the State of South Dakota as the Surety. The bond will remain in full force and effect until issuance by the City of a Certificate of Occupancy under the building permit issued for the project.

12. REVERSION CLAUSE:

The deed conveying the Property shall contain a reversion clause, providing that if the Buyer fails to substantially complete construction of the hotel improvements within twenty-four (24) months of the effective date of the deed, the Seller shall have the right to re-enter and take possession of the Property. Upon such reentry, title to the Property shall revert automatically to the Seller, WDC, who shall immediately transfer title back to the City of Watertown, upon written notice to the Buyer, and without the necessity of further legal action or compensation to the Buyer.

Buyer acknowledges and agrees that WDC is obligated to transfer title back to the City, if directed to do so by the City. If there is a dispute about whether the deed is appropriate or should have been issued from WDC to the City, AirStay Watertown LLC agrees that the dispute is with the City, not WDC and it shall not involve WDC in such a dispute or litigation.

13. ACKNOWLEDGMENT OF PURPOSE:

The Parties herein agree and understand that the purpose of this purchase is for Buyer to construct a downtown hotel. Buyer has an obligation to obtain a conditional use permit from the City of Watertown for Buyer's intended use. The Watertown Development Company, as Seller, by signing this Agreement, does not guarantee or represent that the construction of a downtown hotel is consistent with applicable zoning regulations, or other rules or ordinances, enforced by the City of Watertown. Watertown Development Company has no additional obligations to provide funding or assistance with this project to Buyer.

14. DISCLAIMER BY SELLER:

Seller makes no representations or warranties about the Property except those that may be expressly stated herein. Except for any Seller representations and warranties contained in this Agreement, the Property is sold "AS IS".

15. DEFAULT:

In the event of default in the performance of any of the covenants of this agreement by either of the parties hereto, either party may adopt any remedy allowed by law for the cancellation or the enforcement of this agreement and any of the obligations thereof. If any action at law or in equity is necessary to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees, costs and necessary disbursements in addition to any other relief to which such party may be entitled.

16. CONDITIONS UPON BUYER:

- A. Buyer understands and agrees that as part of the consideration of this Agreement, Buyer is aware of the mold in the basement of the current building that sits on the Property and any demolition involving hazardous materials and/or abatement of the mold or asbestos shall be the responsibility of AirStay Watertown LLC and a condition of sale to AirStay Watertown LLC.



- B. Buyer understands and agrees that as part of the consideration of this Agreement, Buyer is building a hotel that is to be completed within 2 years of the date of closing and Buyer agrees to obtain a performance and completion bond in accordance with Section 11.
- C. This Purchase Agreement is not based upon any inspections having been made of the Property, nor is this Purchase Agreement based upon any representations made by Seller to the Buyer. Buyer is buying the Property “AS IS.”

17. MISCELLANEOUS:

- A. With regard to all dates and time periods set forth or referred to in this Agreement, time is of the essence.
- B. This agreement shall be governed by and construed under the laws of the State of South Dakota.
- C. Each of the parties hereto covenants and agrees to pay all fees, commissions, costs and expenses relating to such party’s use of any broker, financial adviser, finder, agent, attorney, or other persons or entities employed in connection with this Agreement.
- D. This agreement may be executed in one or more counterparts, each of which will be deemed to be an original copy of this agreement and all of which, when taken together, will be deemed to constitute one and the same agreement. Signatures of the parties transmitted by email or facsimile shall be deemed to be their original signatures for all purposes.
- E. All of the covenants, warranties and agreements contained in this Real Estate Purchase Agreement shall extend to and be obligatory upon the heirs, devisees, personal representatives and assigns of the respective parties.
- F. This Agreement (together with the other agreements and documents being delivered pursuant to or in connection with this Agreement) constitute the entire agreement of the parties hereto with respect to the subject matter hereof and thereof and supersede all prior agreements and understandings of the parties, oral and written, with respect to the subject matter hereof.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

**SELLER**  
**Watertown Development Company**

\_\_\_\_\_  
By: Christopher Clifton, its President

Date: \_\_\_\_\_

**BUYER**  
**AirStay Watertown, LLC**

\_\_\_\_\_  
Ryan Wilfahrt, Authorized Member

Date: \_\_\_\_\_