



February 10, 2022

Board of Trustees  
South Central Library System  
4610 S. Biltmore Lane, Suite 101  
Madison, WI 53718-2153

RE: Purchase and Sale Agreement Emailed by Assistant City Attorney Kevin Ramakrishna on January 13<sup>th</sup> 2022 (the "Purchase Agreement")

Dear South Central Library System Board of Trustees:

This firm has been asked to provide an assessment of the Purchase Agreement to the Board of Trustees of the South Central Library System. We have represented the South Central Library System (the "System") in the drafting and negotiation of the Purchase Agreement and have reviewed and commented on the Purchase Agreement with Martha Van Pelt, the System Director.

The Purchase Agreement provides for the purchase of a parcel of land approximately 4.12 acres in area (the "Property") by the System from the City of Madison (the "City") for the construction of a new building on the parcel. The Property is located near Fen Oak Drive on the east side of the City of Madison, Wisconsin. The Purchase Agreement calls for a purchase price of \$348,480.00 with \$15,000.00 of earnest money provided initially by the System. Other material terms of the Purchase Agreement include:

1. The Property will be created as a distinct separate parcel of land by the recording of a certified survey map.
2. There is a due diligence period of 180 days from signing which allows the System to investigate the Property. The System may terminate the Purchase Agreement during the due diligence period in its sole discretion. Prior to closing, the System has the right to perform tests and inspections of the Property (obtain surveys of the Property) and to review the title documents that affect the Property.
3. There is a requirement that the System commence construction (including pouring footings and the foundation) within 18 months after closing of the purchase.
4. The City has agreed to certain "stand still" covenants during the time prior to closing which prohibits the City from making adverse legal, contractual, or physical changes to the status of the Property.
5. Closing is 30 days after the 180 day due diligence period expires.
6. The System is required to indemnify the City for damages, costs, claims, or losses that arise on the Property in connection with the System's inspections or reviews.

7. If the System defaults in its closing obligations to purchase the Property, the City's sole remedy is to recover the earnest money and terminate the contract. If the City defaults the System has the typical remedies of suing for damages or suing for specific performance.
8. The City is to deliver the Property with the Centennial Tree in healthy condition. The System is to build its building around the Centennial Tree.
9. The sale by the City is generally on AS IS WHERE IS terms without representations or warranties from the City.

We believe the Purchase Agreement contains normal terms for this type of transaction and include the types of protections that we would typically recommend for a purchaser. The City accepted most of our requested changes to the form of agreement originally proposed by the City so the Purchase Agreement is now much more favorable to the System. The decision to sign the Purchase Agreement and to close on the purchase of the Property are fundamentally business and strategic decisions on which we do not opine. However, from a legal perspective, we think it is reasonable to proceed with entering into the Purchase Agreement.

Sincerely,

AXLEY BRYNELSON, LLP



Edward J. Lawton  
EJL/lt