



Office of the City Clerk

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Legislation Details (With Text)

File #: O2017-6821

Type: Ordinance **Status:** Passed

File created: 9/6/2017 **In control:** City Council

Final action: 9/6/2017

Title: Amendment to fifty-first amending agreement with SomerCor 504, Inc. to increase grant funds for administration of Small Businesses Improvement Fund Program within various redevelopment project areas

Sponsors: Dept./Agency

Indexes: Improvement

Attachments: 1. O2017-6821 (V1).pdf, 2. O2017-6821.pdf

Date	Ver.	Action By	Action	Result
9/22/2017	1	City Council	Signed by Mayor	
9/6/2017		City Council	Passed	Pass
9/5/2017	1	Committee on Finance	Recommended to Pass	
9/5/2017	1	Committee on Finance	Direct Introduction	

ORDINANCE

WHEREAS, On July 26, 2017, the Chicago City Council passed ordinance 02017-5087 ("Ordinance"), which is the fifty-first amendment of an agreement with SomerCor 504, Inc. The purpose of the Ordinance was to increase grant funds for improvement of commercial and industrial facilities of small businesses in various redevelopment areas; and

WHEREAS, Following the passage of the Ordinance, it was discovered that Exhibit A contains a scrivener's error concerning agreement between a dollar amount written in numbers and the same dollar amount written in words; and

WHEREAS, It is necessary and advisable to correct said error in said Exhibit A; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. Exhibit A to the Ordinance is hereby repealed and replaced in its entirety with Exhibit A attached hereto.

SECTION 2. This ordinance shall be effective upon passage and approval.

EXHIBIT A

EXHIBIT A

Form of Fifty-First Amending Agreement to

ADMINISTRATIVE SERVICES AGREEMENT

This Fifty-First Amending Agreement to Administrative Services Agreement (the "Agreement") is made this day of , 2017, by and between the City of Chicago, a municipal corporation and home rule unit of local government existing under the 1970 Constitution of the State of Illinois (the "City"), acting through its Department of Planning and Development ("DPD"), and SomerCor 504, Inc., an Illinois not-for-profit corporation ("SomerCor") whose office address is 601 South LaSalle Street Street, Suite 510, Chicago, Illinois 60605.

WHEREAS, the City is authorized under the provisions of the Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-1 et seq., as amended from time to time (the "Act"), to finance projects that eradicate blighted conditions and conservation area factors through the use of tax increment allocation financing for redevelopment projects; and

WHEREAS, by ordinances adopted by the City Council of the City on July 21, 1999 and on November 8, 2000, and published in the Journal of Proceedings of the City Council for said dates at pages 8307 to 8344, inclusive, and pages 43877-43930, inclusive, respectively (the "SBIF Ordinances"), the City implemented and amended a redevelopment program known as the Small Business Improvement Fund program (the "SBIF Program") to provide financing assistance pursuant to the Act for the improvement of commercial and industrial facilities of small businesses in certain redevelopment project areas ("TIF Areas") in the City; and

WHEREAS, the City Council, under the SBIF Ordinances, authorized DPD to enter into agreements with SomerCor, and DPD and SomerCor entered into one agreement on September 22, 1999 ("First SomerCor Agreement") and another agreement on March 12, 2001 ("Second SomerCor Agreement"), to administer the SBIF Programs on behalf of the City; and

WHEREAS, in multiple ordinances adopted by the City Council, the most recent of which was adopted on , 2017 and published in the Journal of Proceedings of the City Council for said date at pages through , inclusive (the "Fifty-First Amending Ordinance"), the City Council authorized DPD to enter into agreements amending the First SomerCor Agreement and the Second SomerCor Agreement with SomerCor to make various changes to the administration of the SBIF Program; and

WHEREAS, the Fifty-First Amending Ordinance authorized DPD to enter into an agreement with SomerCor to increase the amount of grant funds available in existing programs in nine redevelopment project areas and to continue to provide SBIF Program administrative services, and DPD and SomerCor now desire to enter into such an agreement, which will amend the Second SomerCor Agreement (the "Fifty-First Amending Agreement");

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth below, the parties hereto agree as follows:

ARTICLE I

INCORPORATION AND RECITALS

The recitals set forth above are incorporated by reference as if fully set forth herein.

ARTICLE II

REAFFIRMATION OF REPRESENTATIONS, WARRANTIES AND COVENANTS

SomerCor reaffirms each and every representation, warranty and covenant made in Article III of the Second SomerCor Agreement. SomerCor reaffirms that it has insurance in force that conforms to the requirements of Section 4.8 of the Second SomerCor Agreement.

ARTICLE III

AMENDMENTS TO SECOND SOMERCOR AGREEMENT

1. The Second SomerCor Agreement, as amended, is further amended, as follows:

(a) amend the text in Exhibit 5 thereof increasing the maximum funds available for the following TIF Areas, which maximum includes previously-allocated funds and additional funding authorized by the Fifty-First Amending Ordinance, as follows:

Avalon Park/South Shore Belmont/Central Commercial Avenue Galewood/Armitage
Belmont/Cicero Division/Homan Midwest
Pulaski Corridor Western/Ogden
\$1,800,000
\$3,700,000
\$2,000,000
\$2,800,000
\$1,500,000
\$900,000
\$3,750,000
\$3,000,000
\$2,000,000

b) substitute the following for each occurrence of "One Hundred Forty-Three Million Six Hundred and Ten Thousand Dollars (\$143,610,000)" in Section 4.2 thereof:

One Hundred Fifty Million Seven Hundred and Sixty Thousand Dollars (\$150,760,000)

c) add the following language to Section 4.9(a) to designate a portion of the maximum funds allocated for the Avalon Park/South Shore redevelopment project area to be available for Grants in the South Shore Retail Thrive Zone, as follows:

<u>TIF Area</u>	<u>Maximum Amount</u>	<u>Corresponding Retail Thrive Zone</u>
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Avalon Park/South Shore

Except as set forth herein, the Agreement is not amended.

ARTICLE IV

OBLIGATION TO PROVIDE DOCUMENTS

SomerCor shall execute and deliver to DPD such documents as may be required by the Corporation Counsel of the City to evidence SomerCor's participation in the Program, including, but not limited to, the City's current form of Economic Disclosure Statement and an opinion of counsel in substantially the form of Exhibit 1 attached hereto and incorporated herein.

IN WITNESS WHEREOF, the City and SomerCor have executed this Agreement as of the date first set forth above.

CITY OF CHICAGO

By:
Commissioner,
Department of Planning and Development

SOMERCOR 504, INC.

By:

Its:

EXHIBIT 1 to Fifty-First Amending Agreement

Form of Counsel's Opinion

2017

City of Chicago
Department of Planning and Development 121 North LaSalle
Street Suite 1000
Chicago, Illinois 60602

RE: Amending Agreement to Administrative Services Agreement (the "Agreement") Ladies and
Gentlemen:

We have acted as counsel for SomerCor 504, Inc., an Illinois not-for-profit corporation ("SomerCor"), in connection with the execution and delivery of the Agreement by and between SomerCor and the City of Chicago, acting by and through its Department of Planning and Development (the "City"). SomerCor has requested that this opinion be furnished to the City.

In so acting as counsel for SomerCor we have examined:

- (i) an executed original of the Agreement;
- ii) the Articles of Incorporation, including all amendments thereto, of SomerCor as furnished and certified by the Secretary of State of the State of Illinois (the "Articles");
- iii) the By-Laws of SomerCor, as certified by the Secretary of SomerCor as of the date hereof (the "By-Laws"); and
- (iv) the Certificate of Good Standing dated _____, issued by the Office of the Secretary of State of the State of Illinois, as to the good standing of SomerCor (the "Certificate of Good Standing").

The Articles, By-Laws and Certificate of Good Standing are referred to collectively as the "Organization Documents".

In our capacity as counsel, we have also examined such other documents or instruments as we have deemed relevant for the purposes of rendering the opinions hereinafter set forth.

We have assumed, but have no reason to question, the legal capacity, authority and the genuineness of the signatures of and due and proper execution and delivery by the respective parties other than SomerCor which has made, executed or delivered or will make, execute and deliver the agreements and documents examined by us. We have also assumed that all documents submitted to us as originals are authentic and that all documents submitted to us as photostatic or certified copies conform to the original documents.

We have further assumed (i) that factual matters set forth in SomerCor's representations and warranties in the Agreement are true and accurate in all respects; (ii) that the conduct of the parties to the Agreement complies with any requirement of good faith, fair dealing and conscionability; and (iii) that there has not been any mutual mistake of fact, fraud, duress or undue influence.

We express no opinion as to (i) the laws of any state or jurisdiction other than the State of Illinois (and any political subdivisions thereof) and the United States of America; (ii) any matters pertaining or relating to the securities laws of the United States of America, the State of Illinois or any other state; (iii) any matters pertaining or related to the Employee Retirement Income Security Act of 1974 and any rules and regulations thereunder; (iv) any matters pertaining or relating to the taxation laws of the United States of America, the State of Illinois or any other state; and (v) any matters pertaining or relating to the criminal, quasi-criminal or civil forfeiture laws of the United States of America, the State of Illinois or any other state. Additionally, this opinion is limited to the matters set forth herein. No opinion may be inferred or implied beyond the matters expressly contained herein. We shall have no continuing obligations to inform you of changes in law or fact subsequent to the date hereof or of facts of which we become aware after the date hereof.

Based upon and subject to the assumptions and qualifications herein stated, it is our opinion that:

1. Based solely on our review of the Organization Documents, SomerCor is a not-for-profit corporation, duly organized and validly existing under the laws of the State of Illinois, SomerCor has made all filings required by the laws of the State of Illinois in respect of its formation and continuing existence, and has all requisite authority to carry on its business and to execute and deliver, and to consummate the transactions contemplated by, the Agreement.

2. Based solely on our review of the Organization Documents, the Agreement has been duly executed and delivered on behalf of SomerCor and constitutes a legal, valid and binding obligation of SomerCor, enforceable against SomerCor in accordance with its terms, except to the extent that enforcement of any such terms may be limited by: (a) applicable bankruptcy; reorganization, debt arrangement, insolvency or other similar laws generally affecting creditors' rights; or (b) judicial and public policy limitations upon the enforcement of certain remedies including those which a court of equity may in its discretion decline to enforce.
3. To our knowledge, there is no action, suit or proceeding at law or in equity pending, nor to our knowledge threatened, against or affecting SomerCor, before any court or before any governmental or administrative agency, which if adversely determined could materially and adversely affect the ability of SomerCor to perform under the Agreement or any of its business or properties or financial or other conditions.
4. The transactions contemplated by the Agreement are governed by the laws of the State of Illinois.
5. The execution and delivery of the Agreement and the consummation of the transactions contemplated thereby will not constitute:
 - A. a violation or breach of (i) the Articles of Incorporation of SomerCor, (ii) the By-Laws of SomerCor, (iii) to our knowledge, any provision of any contract or other instrument to which SomerCor is bound, or (iv) to our knowledge, any order, writ, injunction, decree, statute, rule or regulation binding on SomerCor, or
 - B. to our knowledge, a breach of any of the provisions of, or constitute a default under, or result in the creation or imposition of any lien or encumbrance upon any of the property of SomerCor pursuant to any agreement or other instrument to which SomerCor is a party or by which SomerCor is bound.
6. To our knowledge, no action of, or filing with, any governmental or public body is required to authorize, or is otherwise required for the validity of, the execution, delivery and performance of any of the Agreement.

In basing the opinions or other matters set forth in this letter, the words "our knowledge" signify that, in the course of representation of SomerCor, no facts have come to our attention that would give us actual (and not implied or constructive) knowledge or actual (and not implied or constructive) notice that any such opinions or other matters are not accurate. Except as otherwise expressly stated in this opinion, we have undertaken no investigation nor verification of such opinions and matters. Further, the words "our knowledge" and similar language used in this opinion are intended to be limited to only the actual knowledge of the attorneys within our firm who have been directly involved in representing SomerCor, namely .

The foregoing opinions are furnished exclusively for your benefit and may be relied upon by you in connection with the Agreement, but may not be delivered to or relied upon by any other person or entity without express written consent from the undersigned, which may be granted or denied in the undersigned's sole discretion.

Very truly yours,

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Department of Planning and Development city of chicago

August 23, 2017

**TO THE HONORABLE CHAIRMAN, EDWARD M. BURKE AND MEMBERS OF THE
COMMITTEE ON FINANCE OF THE CITY COUNCIL**

Ladies and Gentlemen:

I transmit herewith an ordinance correcting a scrivener's error in a previously passed ordinance amending an agreement with SomerCor 504 Inc.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

Off-

David L. Reifman Commissioner

121 NORTH LA SALLE STREET, ROOM 1000. CHICAGO, ILLINOIS 60602

CHICAGO September 6.2017

To the President and Members of the City Council:

Your Committee on Finance having had under consideration

An ordinance concerning the authority to approve an amendment to an ordinance that approved Amendment Number 51 to the Small Business Improvement Fund Program.

Direct Introduction

Having had the same under advisement, begs leave to report and recommend that your Honorable Body pass the proposed Ordinance Transmitted Herewith.

**This recommendation was concurred in by
of members of the committee with**

**(a viva voce vote
dissenting vote(s).**

Chairman

approve

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