Legislation Details (With Text)

File #:	O2018-8290		
Type:	Ordinance	**Status:**	Passed
File created:	10/31/2018	**In control:**	City Council
		Final action:	11/14/2018
Title:	Fifty-seventh amending agreement with SomerCor 504, Inc. regarding Small Business Improvement Fund program increases within various Retail Thrive Zones and for administrative services		
Sponsors:	Emanuel, Rahm		
Indexes:	Improvement		
Attachments:	1. O2018-8290.pdf, 2. O2018-8290 (V1).pdf		

Date	Ver.	Action By	Action	Result
11/26/2018	1	Office of the Mayor	Signed by Mayor	
11/14/2018	1	City Council	Passed	Pass
11/13/2018	1	Committee on Finance	Recommended to Pass	
10/31/2018	1	City Council	Referred	

ORDINANCE

WHEREAS, the City of Chicago ("City"), a home rule unit of government under Section 6(a), Article VII of the 1970 Constitution of the State of Illinois, 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 an ordinance adopted by the City Council of the City ("City Council") on July 21, 1999, and published in the Journal of Proceedings of the City Council ("Journal") for said date at pages 8307 to 8344, inclusive (the "Program Ordinance"), the City implemented a redevelopment program known as the Small Business Improvement Fund program (the "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 of the City; and

WHEREAS, by ordinances adopted by the City Council, the first on November 8, 2000, and published in the Journal for said date at pages 43877 to 43930, inclusive (the "First Amending Ordinance") and the most recent fifty-sixth amending ordinance (the "Fifty-Sixth Amending Ordinance," collectively with the Program Ordinance, the First Amending Ordinance and the other amending ordinances, the "SBIF Ordinance"), the City has restated and refined the Program and extended its reach to additional redevelopment project areas of the City; and

WHEREAS, the SBIF Ordinance authorized DPD to fund the Program in the 43rd/Cottage Grove Redevelopment Project Area ("43rd/Cottage Grove Area") in an amount not to exceed $2,250,000; and

WHEREAS, as part of the Program, the $2,250,000 funding previously authorized for the 43rd/Cottage Grove Area was substantially expended for the improvement of commercial and industrial facilities of small businesses in the 43rd/Cottage Grove Area; and

WHEREAS, DPD desires to increase the amount of grant funds available in the 43rd/Cottage Grove Area by an additional $250,000 to a total, collective amount of $2,500,000; and

WHEREAS, the SBIF Ordinance authorized DPD to fund the Program in the 67th/Wentworth Redevelopment Project Area ("67thA/Ventworth Area") in an amount not to exceed $625,000; and

WHEREAS, as part of the Program, the $625,000 funding previously authorized for the 67th/Wentworth Area was substantially expended for the improvement of commercial and industrial facilities of small businesses in the 67th/Wentworth Area; and

WHEREAS, DPD desires to increase the amount of grant funds available in the 67thA/Ventworth Area by an additional $500,000 to a total, collective amount of $1,125,000; and

WHEREAS, the SBIF Ordinance authorized DPD to fund the Program in the 87th/Cottage Grove Redevelopment Project Area ("87th/Cottage Grove Area") in an amount not to exceed $2,125,000; and

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WHEREAS, as part ofthe Program, the $2,125,000 funding previously authorized for the 87th/Cottage Grove Area was substantially expended for the improvement of commercial and industrial facilities of small businesses in the 87th/Cottage Grove Area; and

WHEREAS, DPD desires to increase the amount of grant funds available in the 87th/Cottage Grove Area by an additional $750,000 to a total, collective amount of $2,875,000; and

WHEREAS, the SBIF Ordinance authorized DPD to fund the Program in the Austin Commercial Redevelopment Project Area ("Austin Commercial Area") in an amount not to exceed $3,000,000; and

WHEREAS, as part ofthe Program, the $3,000,000 funding previously authorized for the Austin Commercial Area was substantially expended for the improvement of commercial and industrial facilities of small businesses in the Austin Commercial Area; and

WHEREAS, DPD desires to increase the amount of grant funds available in the Austin Commercial Area by an additional $500,000 to a total, collective amount of $3,500,000; and

WHEREAS, the SBIF Ordinance authorized DPD to fund the Program in the Avalon Park/South Shore Redevelopment Project Area ("Avalon Park/South Shore Area") in an amount not to exceed $1,800,000; and

WHEREAS, as part of the Program, the $1,800,000 funding previously authorized for the Avalon Park/South Shore Area was substantially expended for the improvement of commercial and industrial facilities of small businesses in the Avalon Park/South Shore Area; and

WHEREAS, DPD desires to increase the amount of grant funds available in the Avalon Park/South Shore Area by an additional $400,000 to a total, collective amount of $2,200,000; and

WHEREAS, the SBIF Ordinance authorized DPD to fund the Program in the Englewood Neighborhood Redevelopment Project Area ("Englewood Neighborhood Area") in an amount not to exceed $850,000; and

WHEREAS, as part of the Program, the $850,000 funding previously authorized for the Englewood Neighborhood Area was substantially expended for the improvement of commercial and industrial facilities of small businesses in the Englewood Neighborhood Area; and

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WHEREAS, DPD desires to increase the amount of grant funds available in the Englewood Neighborhood Area by an additional $1,500,000 to a total, collective amount of $2,350,000; and

WHEREAS, the Forty-Seventh Amending Ordinance adopted by the City Council on October 5, 2016, and published in the Journal for said date at pages 33578 to 33604, inclusive, designated funding for the 43rd /Cottage Grove, 67thAA/entworth, 87th/Cottage Grove, Austin Commercial, and Englewood Neighborhood Areas to be targeted for grants in the portions of the Retail Thrive Zones existing within the boundaries of each redevelopment project area and established special rules for the administration of the Program in regard to Program funding

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allocated to. Retail Thrive Zones; and

WHEREAS, the Fifty-First Amending Ordinance adopted by the City Council on July 26, 2017 and published in the Journal of Proceedings of the City Council for said date at pages 52801 through 52828, inclusive, as amended by an ordinance adopted on September 6, 2017 and published in the Journal of Proceedings of the City Council for said date at pages 54360 through 54368, inclusive, designated certain funding for the Avalon Park/South Shore Area to be targeted for grants in the South Shore Retail Thrive Zone existing within the boundaries of the Avalon Park/South Shore Area; and

WHEREAS, the City Council, under the SBIF Ordinance, authorized DPD to enter into an agreement with SomerCor 504, Inc., an Illinois not-for-profit corporation ("SomerCor"), and DPD entered into such agreement on March 12, 2001, which agreement continues in full force and effect, as amended from time to time, pursuant to which SomerCor performs certain administrative services for the Program, and DPD now desires to further amend that agreement by entering into a Fifty-Seventh Amending Agreement (the "Fifty-Seventh Amending Agreement") with SomerCor to (a) increase the amount of grant funds available in the 43rd /Cottage Grove, 67thA/Ventworth, 87th/Cottage Grove, Austin Commercial, Avalon Park/ South Shore, and Englewood Neighborhood Areas, as provided by this ordinance; (b) designate the additional Program funding authorized by this ordinance to be targeted for grants in the portions of the Retail Thrive Zones existing within the boundaries of each redevelopment project area; and (c) authorize SomerCor to continue providing the same administrative services for the Program, which Fifty-Seventh Amending Agreement is set forth in more detail on Exhibit A, attached hereto and incorporated herein; and

WHEREAS, the City's obligation to provide funds under the Fifty-Seventh Amending Agreement may be met through (i) incremental taxes from the 43rd/Cottage Grove, 67thA/Ventworth, 87th/Cottage Grove, Austin Commercial, Avalon Park/South Shore, and Englewood Neighborhood Areas, as applicable; or (ii) any other funds legally available to the City for this purpose; now, therefore,

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

SECTION 1. The above recitals are expressly incorporated in and made a part of this ordinance as though fully set forth herein.

SECTION 2. SomerCor is hereby authorized to continue to administer the Program, subject to the supervision of DPD.

SECTION 3. The Commissioner of DPD or a designee of the Commissioner are each hereby authorized, with the approval of the City's Corporation Counsel as to legal form, to negotiate, execute and deliver the Fifty-Seventh Amending Agreement between SomerCor and the City substantially in the form

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attached hereto as Exhibit A and made a part hereof, and such other supporting documents as may be necessary to carry out and comply with the provisions of the Fifty-Seventh Amending Agreement, with such changes, deletions and insertions as shall be approved by the persons executing the Fifty-Seventh Amending Agreement.

SECTION 4. To the extent that any ordinance, resolution, rule, order or provision of the Municipal Code of Chicago, or part thereof, is in conflict with the provisions of this ordinance, the provisions of this ordinance shall control. All sections of the SBIF Ordinance in conflict with

this ordinance are hereby repealed to the extent of such conflict. If any section, paragraph, clause or provision of this ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this ordinance.

SECTION 5. This ordinance shall be effective as. of the date of its passage and approval.

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EXHIBIT A TO THE ORDINANCE

Form of Fifty-Seventh Amending Agreement

to

ADMINISTRATIVE SERVICES AGREEMENT

This Fifty-Seventh Amending Agreement to Administrative Services Agreement (the "Agreement") is made this day of , 201_, 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 seg., 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 ofthe 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 , 2018 and published in the Journal of Proceedings of the City Council for said date at pages through , inclusive ■ (the "Fifty-Seventh 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 ofthe SBIF Program; and

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WHEREAS, the Fifty-Seventh Amending Ordinance authorized DPD to enter into an agreement with SomerCor to increase the amount of grant funds available in existing programs in the 43rd/Cottage Grove, 67th AA/entworth, 87th/Cottage Grove, Austin Commercial, Avalon Park/South Shore, and Englewood Neighborhood 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-Seventh 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 ofthe 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-Seventh Amending Ordinance, as follows:

43rd/Cottage Grove	$2,500,000
67tf7Wentworth	$1,125,000
87th/Cottage Grove	$2,875,000
Austin Commercial	$3,500,000
Avalon Park/South Shore	$2,200,000
Englewood Neighborhood	$2,350,000

b) amend the text in Section 4.9(a) thereof increasing the maximum funds available for the following TIF Areas, which maximum includes previously-allocated funds and additional funding authorized by the Fifty-Seventh Amending Ordinance, for Grants to Eligible Applicants in the applicable Retail Thrive Zones, as follows:

TIF Area	Maximum Amount	Corresponding Retail Thrive Zone

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43rd/Cottage Grove	$1,000,000	Bronzeville
67th/Wentworth	$1,125,000	Chatham
87th/Cottage Grove	$1,575,000	Chatham
Austin Commercial	$1,750,000	Austin
Avalon Park/South Shore	$1,400,000	South Shore
Englewood Neighborhood	$2,350,000	Englewood

c) substitute the following for each occurrence of "[One Hundred Sixty-Three Million Four Hundred and Sixty Thousand Dollars ($163,460,000)]" in Section 4.2 thereof:

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[One Hundred Sixty-Seven Million Three Hundred and Sixty Thousand Dollars ($167,360,000)]

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, an opinion of counsel in substantially the form of Exhibit 1 attached hereto and incorporated herein, and the City's current form of Economic Disclosure Statement.

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:

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EXHIBIT 1 to Fifty-Seventh Amending Agreement

Form of Counsel's Opinion

2018

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 ofthe 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.

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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.

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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 ofthe 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.

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5v, 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 other 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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OFFICE OF THE MAYOR

CITY OF CHICAGO

RAHM EMANUEL
MAYOR

October 31, 2018

TO THE HONORABLE, THE CITY COUNCIL OF
THE CITY OF CHICAGO

Ladies and Gentlemen:

At the request of the Commissioner of Planning and Development, 1 transmit herewith an ordinance authorizing an expenditure of TIF Small Business Improvement Funds for Retail Thrive Zones.

Your favorable consideration ofthis ordinance will be appreciated.

Mayor

Very truly yours,

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CHICAGO November 14. 2018

To the President and Members of the City Council:

Your Committee on Finance having had under consideration a communication recommending a proposed ordinance concerning the authority to approve Amendment Number 57 to the Small Business Improvement Fund Program.

02018-8290

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 (afwva voce vote") of members of the committee with dissenting vote(s)T

Respectfully submitted
(signedFj
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Chairman

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