



July 26, 2012

44 Montgomery Street  
Suite 400  
San Francisco, CA  
94104-4606

Gregg McLean Adam  
Direct Dial: 415.743.2534  
gadam@cbmlaw.com

415.989.5900  
415.989.0932 Fax  
www.cbmlaw.com

**VIA EMAIL AND REGULAR MAIL**

Los Angeles  
Sacramento  
Walnut Creek

Alex Gurza  
Deputy City Manager  
Office of the City Manager, City of San Jose  
200 E Santa Clara St  
San Jose, CA 95113

**Re: This Letter and Grievance re Outsourcing of Background Investigations  
File No. 038780**

Dear Alex:

Thank you for your letter dated July 24, 2012, which articulated the City's intent to push forward with its plan to outsource background investigations. As you acknowledge, the parties have philosophical and legal disagreements about whether the City can or should move forward with its proposal.

The MOA entitles the City to civilianize/outsource up to a maximum of 20 positions. That is confirmed by the bargaining history of Article 51. We understand that the City has already civilianized/outsourced 19 positions. (Our still pending information request seeks to verify the number of positions civilianized/outsourced.)

Accordingly, I lay out below what the City should consider a grievance. It explains that the City **cannot** proceed with civilianizing/outsourcing more than 20 positions and that cap would be breached by outsourcing background investigations.

The grievance should be processed and resolved before taking any further steps in the impasse resolution procedures.

If the grievance is *ultimately* denied, then the POA will want to proceed through the impasse resolution procedures, as contemplated in your letter.

The grievance is as follows: The San Jose Police Department's intention to move ahead with the outsourcing of background investigations, a

Alex Gurza

Re: This Letter and Grievance re Outsourcing of Background Investigations

July 26, 2012

Page 2

function currently being carried out by police officers represented by SJPOA, violates Section 51.1 ("The city has the discretion to contract out/civilianize up to twenty positions during the term of this agreement"). Based on representations by City Officials, at formal meetings, and the POA's general knowledge, we understand that 19 of the 20 positions have previously been contracted out or civilianized. The POA understands that the outsourcing of background investigations would constitute the equivalent of more than one full-time position.

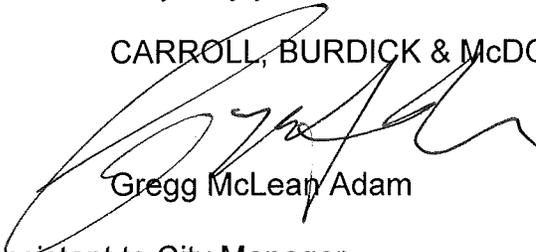
This reasoning was laid out to you at our recent meeting on this subject, on June 28, 2012.

By way of remedy, the POA asks that the City cease and desist from implementing the civilianization of background investigations. (The POA reserves the right to seek supplemental remedies if this dispute is arbitrated.)

This grievance is being presented to you, in the first instance, at Step 3 because the POA believes that no one below your level has the authority to grant the grievance.

Very truly yours,

CARROLL, BURDICK & McDONOUGH LLP



Gregg McLean Adam

GMA:jo

cc: Jennifer Schembri, Assistant to City Manager  
Jim Unland, President, SJPOA  
John Robb, Vice President, SJPOA  
Franco Vado, Chief Financial Officer, SJPOA