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September 30, 2016

VIA FEDERAL EXPRESS

Mr. Mike Rankin, City Attorney
City of Tucson, Office of the City Attorney
City Hall
255 W. Alameda
Tucson, AZ 85726-7210

Re: City of Tucson, Arizona License Agreement No. 477430-2016-03

Dear Mr. Rankin:

This firm serves as legal counsel to Bernie 2016, Inc., the official campaign committee for Senator Bernie Sanders' 2016 U.S. presidential bid (the "Campaign"). We are in receipt of your letter dated September 20, 2016, relating to the Campaign's March 18, 2016, event at the Tucson Convention Center. In that letter, you assert that the Campaign owes \$44,013.00 to SMG – Tucson Convention Center for "security and for crowd and traffic control" under a license agreement entered into on March 16, 2016. Specifically, you state that "[p]ursuant to Section 3.D and 4.B.2 of the license agreement, [the Campaign is] responsible for these payments."

We are writing to notify you that the Campaign is not responsible for payment to the City of Tucson for its staffing of on-duty members of the Tucson Police Department at the March 18 event. The Campaign (1) did not agree to pay for such expenses as part of its license agreement with SMG – Tucson Convention, (2) did not arrange or request for the Tucson Police Department to provide such services, and (3) is not otherwise obligated to pay for the cost of the Tucson Police Department's activities on March 18.

The SMG – Tucson Convention Center license agreement does not state that the Campaign is responsible to pay for unrequested services provided by the Tucson Police Department. Although the rental rate specified in the license agreement does not generally include ancillary fees for event security, ushering, crowd and traffic control "provided by" SMG – Tucson Convention Center, the services provided by the Tucson Police Department are not "Ancillary Services" as defined in the agreement. First, the agreement provides that the Licensee (*i.e.*, the Campaign) "shall pay Ancillary Service Charges for all Ancillary Services provided to Licensee *by Operator.*" Section 3.D (emphasis added). SMG – Tucson Convention Center did not "provide" the police services of the Tucson Police Department.



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Second, although the agreement excludes both services for “security, crowd, and traffic personnel,” (Section 4.B.2) and “security-ushering needs” (Summary of Basic Terms, p. 2), the public safety services provided by on-duty members of the Tucson police force are not congruous with private event security and ushering services anticipated by the terms of the license agreement. Third, if SMG – Tucson Convention Center had believed that the amount now billed to the Campaign were “Ancillary Service Charges” at the time of the event in March, the fees should have been billed on the night of the event, not nearly a month later. *See* Summary of Basic Terms, p. 2 (“OTHER CHARGES: Fees shall be made *on the closing night* of the use of areas unless a prior agreement is reached and accepted by both parties.”) (emphasis added). Indeed, pursuant to the agreement, any Ancillary Service Charges were to have been paid by a separate Ancillary Service Deposit (Section 3.D), which would have been collected by SMG – Tucson Convention Center had the parties anticipated collection of an additional \$44,013 expense far exceeding the \$3,177.50 base rental fee. Therefore, to the extent SMG – Tucson Convention Center relies on its provisions related to “ancillary service charges,” the license agreement does not require payment of these billed fees by the Campaign.

The Campaign did not contract for, nor did it request or arrange for the Tucson Police Department to provide public safety at the Campaign event. As you may or may not know, a third party – the U.S. Secret Service – typically made arrangements for all security matters with regard to Senator Sanders during his presidential campaign. The level of security or public safety requirements anticipated for any particular event were not dictated by the Campaign. Therefore, to the extent the Secret Service independently contacted the Tucson Police Department or any other local law enforcement organization to assist in its security detail, the law enforcement organization should discuss cost-sharing matters directly with the Secret Service.

Sincerely,

Brad C. Deutsch
Counsel to Bernie 2016