

Exhibit J

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

RAVEN WOLF C. FELTON
JENNNINGS II,
RAYMOND DOUGLAS

Plaintiffs,

V.

Case No. 4:20-cv-00584-JAR

CITY OF UNIVERSITY CITY,
MISSOURI

Defendant.

SUPPLEMENTAL DECLARATION OF RAYMOND DOUGLAS

I, Raymond Douglas, declare as follows:

1. I am over eighteen years old and legally competent to make a declaration.
2. I make this declaration on the basis of personal knowledge.
3. I am a citizen of Missouri and reside in Greendale, Missouri.
4. I am a plaintiff in the above-captioned lawsuit that is currently pending in the

United States District Court for the Eastern District of Missouri.

5. On June 26, 2020, I learned that University City had filed its response to my motion for a preliminary injunction. I learned that in that response, the University City City Manager stated that he was instructing his department heads, including the chief of police, to allow musicians to play music in the Delmar Loop while this lawsuit is pending and that musicians would only be asked to stop performing if they are actually obstructing pedestrian traffic.
6. On June 29, 2020, I returned to the Delmar Loop to play music.

7. At approximately 6 p.m., I began playing my unamplified acoustic guitar near the intersection of Delmar Boulevard and Leland Avenue, close to Fitz's restaurant. This was a location where I had regularly played music for approximately eight years until the events described in my April 17, 2020 declaration caused me to cease playing music there.

8. I was not obstructing the passage of any pedestrians.

9. I had been playing music for approximately 30 to 35 minutes when a University City police officer pulled his car over, rolled down his window, and motioned for me to approach him.

10. The officer informed me I was not allowed to play music at that location.

11. I told the officer that I would move if he said I had to, but that I understood that I could play music there based on the City Manager's statement described above.

12. I showed the officer a text message from my attorney stating that city had filed a response and the City Manager had stated that he was instructing his department heads, including the chief of police, to allow musicians to perform while this lawsuit is pending and that musicians will only be asked to stop performing if they are actually obstructing pedestrian traffic.

13. I asked the officer if he still wanted me to move along. He told me he had to talk to his lieutenant and that I could continue playing while he did so.

14. The officer parked his car and remained inside.

15. I continued to play music for another few minutes. The officer then exited his vehicle and approached me. He said that he had just spoken to his lieutenant and that his lieutenant told him the lieutenant had not heard anything about musicians being permitted to play.

16. The officer told me I could not continue playing music in University City, but I could play across the city line in the City of St. Louis.

17. The officer provided me with his name, but I do not recall it.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 1, 2020

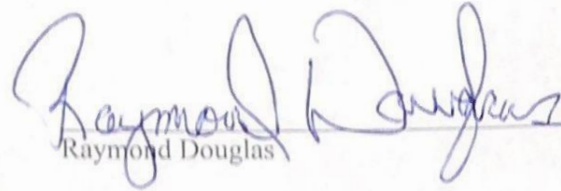

Raymond Douglas

Exhibit K

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

RAVEN WOLF C. FELTON
JENNNINGS II,
RAYMOND DOUGLAS

Plaintiffs,

V.

Case No. 4:20-cv-00584-JAR

CITY OF UNIVERSITY CITY,
MISSOURI

Defendant.

DECLARATION OF RUOWEN PEI

I, Ruowen Pei, declare as follows:

1. I am over eighteen years old and I am legally competent to make this declaration. I have personal knowledge of the facts set forth in this declaration and could and would testify competently to those facts if called as a witness.

2. On June 22, 2019, at approximately 1:30 p.m., I went to the wide public sidewalk on the northwest corner of the intersection of Delmar Boulevard and Melville Avenue to share my religious beliefs with passersby.

3. I positioned myself near the statue of Chuck Berry, where I handed out religious literature and spoke orally with passersby.

4. I used only my voice, without any type of amplification.

5. I was not obstructing the passage of any pedestrians.

6. After peacefully sharing my religious beliefs for approximately one hour, a University City Police Officer approached me and stated that I could not continue to share my religious beliefs due to a city ordinance under which I could be cited or fined.

7. The officer suggested I might be able to share my religious beliefs in the future if I had a permit to do so.

8. Fearing criminal sanction, I stopped sharing my faith and left the area.

9. I wanted to return to University City to share my faith, but did not want to run afoul of any law.

10. Sometime between July 10 and July 17, 2019, I went to the University City Police Department to ask about the law that the University City Police Officer mentioned.

11. I spoke with Sergeant Woodland. I recounted to him my interaction with the officer on June 22, 2019, and asked about the law that prevented me from sharing my religious beliefs.

12. Sergeant Woodland informed me that University City Ordinance §215.720 applied to my religious expression and handed me a copy of the ordinance.

13. Sergeant Woodland also suggested to me that I could possibly get a permit to share my religious beliefs on the public sidewalk in University City if I contacted City Hall.

14. I reviewed University City Ordinance §215.720 and saw that it did not mention any allowance for obtaining a permit. Instead, the ordinance flatly prohibited certain activities deemed to cause “obstruction.” Although my activity did not actually cause any obstruction, both the officer who approached me on June 22, 2019, and Sergeant Woodland indicated that my religious expression was barred by the ordinance.

15. I contacted attorneys at the Center for Religious Expression regarding University City Ordinance §215.720.

16. On August 30, 2019, attorneys at the Center for Religious Expression sent a letter on my behalf to University City Mayor Terry Crow, Chief of Police Larry Hampton, and City Attorney John F. Mulligan, Jr. A true and correct copy of that letter is attached hereto as Exhibit 1.

17. The letter informed Mr. Crow, Mr. Hampton, and Mr. Mulligan that University City had violated and continues to violate my First Amendment rights by applying §215.720 to prohibit me from handing out religious literature and speaking orally on public sidewalks in University City.

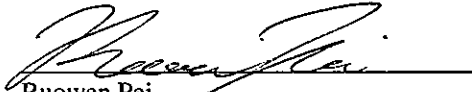
18. The letter requested written assurance within two weeks of the date of the letter that University City would no longer ban me from peacefully distributing literature and orally communicating my religious beliefs on University City sidewalks.

19. University City has never provided the requested written assurance. Nor has University City provided any such assurance orally.

20. Although I wish to share my religious beliefs on the public sidewalks in University City, I have refrained from doing so because I fear criminal sanction. But for the threat of criminal sanction, I would share my religious beliefs on the public sidewalks in University City.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 30th of June, 2020.


Ruowen Pei

CENTER FOR
RELIGIOUS
EXPRESSION



August 30, 2019

Mr. Terry Crow, Mayor VIA Email mayor@ucitymo.org and U.S. Mail City Hall, Office of the Mayor 6801 Delmar Blvd University City, MO 63130	Mr. Larry Hampton, Chief of Police VIA Email lhampton@ucitymo.org and U.S. Mail University City Police Department 6801 Delmar Boulevard University City, MO 63130
Mr. John F. Mulligan, Jr., City Attorney VIA Email JFMulliganJr@aol.com and U.S. Mail 101 South Hanley, Suite 1280 Clayton, MO 63105	

Re: Infringement on Ruowen Pei's Free Speech in University City

Dear Mayor Crow, Chief Hampton, and Mr. Mulligan:

Please know Ruowen Pei contacted Center for Religious Expression (CRE) regarding city ordinance and policy that prohibits him from communicating his religious beliefs on public city sidewalks in downtown University City, Missouri.

On June 22, 2019, around 1:30 p.m., Pei went to the wide public sidewalk on the northwest corner of the intersection of Delmar Blvd. and Melville Ave. to share his religious beliefs with passersby. Positioning himself near a statue of Chuck Berry, Pei peacefully handed out religious literature and orally spoke with passersby with his natural voice without causing congestion or any other concerns. However, after he shared his beliefs in this way for approximately one hour, a police officer of the University City Police Department approached Pei and informed that he had to discontinue his expression that day due to a city ordinance under which Pei could be cited or fined. The officer suggested Pei might be able share his beliefs in the future if he obtained a permit to do so. Fearing criminal sanction, Pei ceased sharing his faith and left the area.

Pei wanted to return to University City to share his faith, but not wanting to run afoul of the law, he subsequently went to the University City Police Department to ask for the law the officer had mentioned. Speaking with Sgt. Woodland, Pei recounted the incident on June 22 and inquired of the law preventing him from sharing his faith. Sgt. Woodland informed him that University City Ordinance § 215.720 covered his expression, and handed him a copy for his

EXHIBIT 1

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August 30, 2019

information. The sergeant also suggested that Pei could possibly get a permit to conduct his activity if he contacted City Hall.

Reviewing the ordinance, Pei noticed that the law made no allowance for obtaining a permit, as the police officers had suggested. Instead, it flatly prohibits activities deemed to cause “obstruction.” And, though Pei’s expression does not actually cause obstruction, both officers indicated that Pei’s expression is barred by the ordinance.

Fearing criminal sanction, Pei has refrained from sharing his faith in University City. As it stands, University City has violated and continues to violate Pei’s constitutional rights, applying to University City Ordinance § 215.720 to ban Pei from handing out religious literature and speaking orally on public sidewalks and ways in University City. Pei sends this letter, through counsel, in an attempt to resolve this conflict without litigation.

LEGAL ANALYSIS

PEI’S EXPRESSION WARRANTS CONSTITUTIONAL PROTECTION

Pei wants to share a religious message through constitutionally-protected means. His speech deserves First Amendment protection. *Capital Square Review and Advisory Board v. Pinette*, 515 U.S. 753, 760 (1995). Both oral and written forms of communication of religious viewpoints are protected. *Heffron v. Int’l Soc’y for Krishna Consciousness, Inc.*, 452 U.S. 640, 647 (1981). Literature distribution is a particularly venerated means of imparting messages. *Schneider v. New Jersey*, 308 U.S. 147, 164 (1939); see *McCullen v. Coakley*, 134 S. Ct. 2518, 2536 (2014) (“[n]o form of speech is entitled to greater constitutional protection.”) (citation omitted). “[P]reaching the Gospel...through personal visitations” is a method of speech within the free speech clause. *Murdock v. Pennsylvania*, 319 U.S. 105, 110 (1943). Pei’s desired speech is protected.

CITY SIDEWALKS ARE TRADITIONAL PUBLIC FORA

The extent to which the government may regulate protected speech depends “on the character of the property at issue.” *Frisby v. Schultz*, 487 U.S. 474, 479 (1988) (citation omitted). City sidewalks, like those where Pei wants to share his faith, are “quintessential” traditional public fora for speech. *Ball v. City of Lincoln, Nebraska*, 870 F.3d 722, 730 (8th Cir. 2017). In such places, “the government’s ability to permissibly restrict expressive conduct is very limited.” *Id.*

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August 30, 2019

BAN ON PEI'S SPEECH IS UNCONSTITUTIONAL

In traditional public fora, restrictions on speech can only be upheld if they are content-neutral, narrowly tailored to serve a significant government interest and leave open ample alternative means of communication. *Perry Educ. Ass'n. v. Perry Local Educators' Ass'n.*, 460 U.S. 37, 45 (1983). University City's application of Ordinance § 215.720 to ban Pei's peaceful expression fails to meet these constitutional standards.

The ban is not narrowly tailored. Narrow tailoring requires a speech restriction not "burden substantially more speech than is necessary to further the government's legitimate interests." *Ward v. Rock Against Racism*, 491 U.S. 781, 798 (1989). While preventing obstruction can be a legitimate goal, banning individual literature distribution and oral communication burdens more speech than necessary. Literature distribution does not cause congestion because passersby can easily accept literature or decline it without stopping. *Int'l Soc'y for Krishna Consciousness, Inc. v. Lee*, 505 U.S. 672, 690 (1992) (holding ban on literature distribution unconstitutional in an airport terminal); *accord Johnson v. Minneapolis Park & Recreation Bd.*, 729 F.3d 1094, 1101 (8th Cir. 2013) (citing *Lee*, held ban on literature distribution in public park during festival was not narrowly tailored). The same applies to oral expression. No one needs to stop to hear Pei's message. Pei's expression causes no more obstruction than his mere presence, which leaves ample room for people to walk around him. *See Lederman v. United States*, 291 F.3d 36, 45 (D.C. Cir. 2002) (holding that government cannot "distinguish between demonstrators and pedestrians on a wholesale and categorical basis, without providing evidence that demonstrators pose a greater risk to identified government interests than do pedestrians.") (citation and quotation marks omitted). Because Pei's expression creates no real obstruction, imposing a flat ban on it is not narrowly tailored.

Neither does the ban leave open ample alternatives for Pei's religious expression. As University City applies § 215.720, Pei cannot distribute literature or talk about his religious beliefs at any time on any public sidewalks in University City. Far from leaving ample alternatives, Pei is left with no way to share his faith publicly.

Moreover, the police officer's vague mention of a permit requirement compounds the constitutional harm to Pei. On its face, Ordinance § 215.720 does not mention any permit exception, instead banning Pei's expression outright. To be sure, applying a law in a manner that runs counter to its literal meaning is unconstitutionally vague. *See Grayned v. City of Rockford*, 408 U.S. 104, 108-09 (1972) (laws must give fair notice of their requirements, lest they chill protected speech). Even more concerning, the police officer's statements suggest that University City reserves the authority to exempt some speakers from the

Page 4
August 30, 2019

ordinance's restrictions. Because the ordinance does not set forth any criteria for whether to grant such a "permit," it effectively gives University City unbridled discretion to grant or withhold permission at will. *See Shuttlesworth v. Birmingham*, 394 U.S. 147, 150-51 (1969) (unbridled discretion to permit or prohibit speech is unconstitutional). Such discretion empowers the licensing official to unconstitutionally censor disfavored viewpoints by denying a permit, while exempting the expression of favored viewpoints from the restrictions of § 215.720. *See City of Lakewood v. Plain Dealer Publ'g Co.*, 486 U.S. 750 757-58 (1988) (noting that lack of explicit criteria enable licensor to mask censorship); *see also City of Ladue v. Gilleo*, 512 U.S. 43, 51 (1994) ("[A]n exemption from an otherwise permissible regulation of speech may represent a governmental 'attempt to give one side of a debatable public question an advantage in expressing its views to the people.'"). University City's supposed permit requirement does not cure the constitutional violation, but compounds it.¹

DEMAND

As shown, University City's enforcement of Ordinance § 215.720 to ban Pei's peaceful and inherently non-obstructive religious expression on public sidewalks violates Pei's constitutional rights. Pei therefore requires written assurance – within two weeks of the date of this letter – that University City will no longer ban Pei from peacefully distributing literature and orally communicating his religious beliefs on city sidewalks.

Sincerely yours,



Nathan W. Kellum

NWK/jy

cc: Ruowen Pei

¹ In addition, courts have repeatedly held that imposing a permit requirement on speech by individuals and small groups is itself unconstitutional. *See, e.g., Cox v. City of Charleston*, 416 F.3d 281, 285 (4th Cir. 2005) ("[T]he unflinching application of the Ordinance to groups as small as two or three renders it constitutionally infirm"); *Parks v. Finan*, 385 F.3d 694, 705-06 (6th Cir. 2004) (held permit scheme applicable to lone individual engaged in expression not narrowly tailored); *Grossman v. City of Portland*, 33 F.3d 1200, 1206-07 (9th Cir. 1994) (held permit requirement for individuals "making an address" in a public place was not narrowly tailored); *see also Douglas v. Brownell*, 88 F.3d at 1511, 1524 (8th Cir. 1996) (espousing doubt that permit requirement could be constitutionally applied to groups as small as ten). University City cannot justify imposing any permit requirement on Pei's individual literature distribution and oral communication on city sidewalks.

Exhibit L

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

RAVEN WOLF C. FELTON
JENNNINGS II,
RAYMOND DOUGLAS

Plaintiffs,

V.

CITY OF UNIVERSITY CITY,
MISSOURI

Defendant.

Case No. 4:20-cv-00584-JAR

DECLARATION OF ARICA BROWN

I, Arica Brown, declare as follows:

1. I am over eighteen years old and I am legally competent to make this declaration. I have personal knowledge of the facts set forth in this declaration and could and would testify competently to those facts if called as a witness.
2. I am the Founder and the Artistic and Executive Director of the Consuming Kinetics Dance Company (“Dance Company”), a 501(c)(3) charitable corporation that offers a wide variety of dance classes to the public.
3. During the last four weeks of summer each year, the Dance Company puts on an all-day camp for kids, seventy-five percent of whom are on a full or partial scholarship, to educate the students about cultural arts.
4. The students work during the camp to prepare for a street show performance.
5. At approximately 11:00 a.m. on August 9, 2019, I took nineteen students to the public plaza adjacent to the wide public sidewalk on the northwest corner of the intersection of Delmar Boulevard and Melville Avenue to perform an hour-long street show.

6. I positioned my students in the public plaza near the statue of Chuck Berry, where I rolled out a portable linoleum floor for them to take turns dancing on, one or two at a time, while the others stood behind them in a semi-circle.

7. Five teaching artists were chaperoning and approximately twenty people spectated the performance.

8. The students, chaperones, and spectators were not obstructing the passage of any pedestrians.

9. A true and correct video clip of part of the August 9, 2019 performance is attached hereto as Exhibit 1. Ms. Katrin Allen filmed the clip and gave her permission for it to be attached. I understand that the faces of minors depicted in the video have been blurred to protect their privacy. The video accurately depicts the location and set up of my students' performance.

10. For eight years prior to this street show, my students performed at this exact same location in the exact same fashion without any disruption.

11. Less than five minutes into the performance on August 9, 2019, a University City Police Officer approached me and stated that I needed to stop the performance or he would have to take control of the situation and stop the performance himself.

12. The officer stated if I wanted my students to perform in the future I needed a permit to do so.

13. The officer allowed me and the Board President of the Dance Company to call City Hall to attempt to get a permit. He allowed the performance to continue while we contacted City Hall. An employee responded that we could not obtain a permit the day of the event and stated in the future I would need to obtain one far in advance of any performance.

14. Fearing criminal sanction, I stopped my students from performing and left.

15. My students were devastated that the performance was stopped and embarrassed to feel like criminals for showing off their weeks of hard work.

16. I wanted my students to perform on Delmar Boulevard again because the street historically celebrates music and the arts, but I did not want to run afoul of any law.

17. In February 2020, the Dance Company began attempting to obtain a permit to perform a street show on August 7, 2020 in the public plaza by the Chuck Berry statue and adjacent to the public sidewalk on Delmar Boulevard.

18. The University City website did not provide a method to obtain a permit that would allow the performance.

19. In February 2020, an employee at City Hall stated that there was no permit that would allow my students to perform on Delmar Boulevard.

20. The Dance Company arranged for the August 7, 2020 street show to occur at the World Chess Hall of Fame instead.

21. Although I wish my students could perform on or adjacent to the public sidewalk of Delmar Boulevard because of the music and arts history, I have refrained from having them do so because I fear criminal sanction against myself and my students. But for the threat of criminal sanction, I would have my students perform on or adjacent to the public sidewalk of Delmar Boulevard in University City.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 6, 2020.

A handwritten signature in black ink, appearing to read "ARICA BROWN". The signature is stylized with large, bold letters and a prominent "A".

Arica Brown

EXHIBIT 1 TO DECLARATION OF ARICA BROWN

Exhibit 1 is a video that cannot be filed through the electronic filing system. It will be separately filed with the Clerk's Office on a flash drive, provided to the Court, and served on counsel of record.

Exhibit M

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

RAVEN WOLF C. FELTON
JENNNINGS II,
RAYMOND DOUGLAS

Plaintiffs,

v.

CITY OF UNIVERSITY CITY,
MISSOURI

Defendant.

Case No. 4:20-cv-00584-JAR

DECLARATION OF DANIEL KUEHNERT

I, Daniel Kuehnert, declare as follows:

1. I am over eighteen years old and I am legally competent to make this declaration. I have personal knowledge of the facts set forth in this declaration and could and would testify competently to those facts if called as a witness.

2. I am a resident of St. Louis, Missouri.

3. In December 2019, I was a member of a group called the Warren Warblers. The members of this group were St. Louis-area volunteers for Sen. Elizabeth Warren's campaign to be the Democratic Party's nominee for president. The group sang carols with lyrics that had been re-written to express support of Sen. Warren and her policies. The goal of these performances was to engage voters in an entertaining way and to encourage others to support Sen. Warren in the Democratic primary.

4. On December 21, 2019, a group of approximately seven Warren Warblers gathered to sing in the Delmar Loop in University City, Missouri.

5. At approximately 5 p.m., we positioned ourselves near the northwest corner of the intersection of Delmar Boulevard and Melville Avenue, near the statue of Chuck Berry.

6. This area includes a wide public sidewalk and plaza surrounding the statue. Our small group stood on the plaza area.

7. For approximately 45 to 50 minutes, we sang without incident and received no complaints.

8. Our group did not obstruct the passage of any pedestrians.

9. After approximately 45 to 50 minutes, a University City Police car pulled up and a University City police officer exited the vehicle. She walked over to our group.

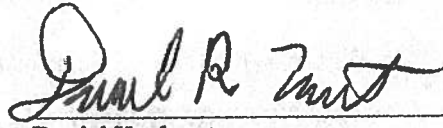
10. The officer allowed us to complete the song we were singing. She then informed us that we were not permitted to perform at that location while standing in one place without a permit.

11. Understanding that we could be subject to criminal sanctions, we stopped performing and left the area.

12. That same night, I posted on Facebook a photograph of our group along with this statement: "Another evening singing with the Warren Warblers. This is from about 50 minutes before the U City Police shut us down for performing by the Chuck Berry statue without a permit." A screenshot reflecting a true and accurate copy of that Facebook post is attached as Exhibit 1.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 3RD of July, 2020.


Daniel Kuehnert



Dan Kuehnert

Dec 21, 2019 • 2

Another evening singing with the Warren Warblers.

This is from about 50 minutes before the U City Police shut us down for performing by the Chuck Berry statue without a permit.



EXHIBIT 1

Exhibit N

LaRette Reese

From: Larry Hampton
Sent: Monday, July 22, 2019 5:49 PM
To: Libbey Tucker
Subject: RE: Musician in the Loop-Scotty

Thanks Libbey.

I think the word permit used by the musician / vendor is in the same context as the permit needed by Loop businesses to special events approved. Just direct them to the businesses for them to get sponsored.

Just FYI, I talked this same person for 20 minutes on Friday. He understands the process. Not to mention that he admitted to making significant money down there on a regular basis, and he became quiet when asked about business permits, taxes, etc..

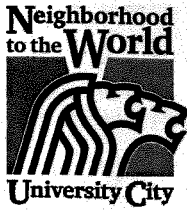
From: Libbey Tucker
Sent: Monday, July 22, 2019 3:38 PM
To: Larry Hampton <lhampton@ucitymo.org>
Subject: Musician in the Loop-Scotty

Chief:

One of the "regular" Loop guitar musicians, Scotty, came by my office (again) today asking for a permit to play in the Loop. He says a police officer told him to come to City Hall for a permit and someone is sending him to me (or finance). When I told him again that there isn't one, he asked for a letter from me stating that there is no permit. I gave him the following and explained that a business can have him play on private property if they have a permit or letter from the City Manager, which is my understanding from our last meeting. While he was very cordial, I felt a little uncomfortable and thought there was no harm in doing what he was asking so he would be on his way. Just wanted you to be aware. Let me know if I should have handled it differently.

Libbey

Exhibit O



Libbey Tucker

6801 Delmar Boulevard, University City, Missouri 63130, Phone: (314) 505-8533
ltucker@ucitymo.org

Director of Economic Development

July 22, 2019

To Whom it May Concern:

This is confirm that, per the City Manager and in accordance with Section 215.070 of the City Ordinances (Obstructing Public Places), there is NO permit available for musicians and street performers in the Delmar Loop. Musicians are only permitted who are not stationary. If the business owner engages and supports a performer on their own private property, not in the right of way, they may contact the City Manager's office for approval.

If you have any questions, please contact me at the above.

Sincerely,

Libbey M. Tucker
Assistant to the City Manger
Director of Economic Development