



**Date of Council Meeting:** September 22, 2015

**TOWN OF LEESBURG  
TOWN COUNCIL MEETING**

**Subject:** Memorandum of Understanding between the Town of Leesburg and the George Mason Enterprise Center

**Staff Contact:** Marantha Edwards, Economic Development Director

**Council Action Requested:** Renewal of a memorandum of understanding between the Town of Leesburg, and the George Mason Enterprise Center .

**Staff Recommendation:** That the Town Council authorize the Mayor to renew the Memorandum of Understanding to serve as the formalized contract between the Town of Leesburg and George Mason Enterprise Center – Leesburg and the Small Business Development Center partnership.

**Commission Recommendation:** Not Applicable

**Fiscal Impact:** The Fiscal Year 2016 Budget includes an appropriation of \$323,620 for the lease of 202 Church Street that houses the Mason Enterprise Center (MEC), Small Business Development Center (SBDC), and the Town Economic Development Department. MEC provides \$257,566 in funding to the Town to offset the cost of the total lease. The remaining balance of the lease of \$66,054 reflects the Town's contributions provided to the SBDC (\$15,000) and MEC (\$29,000), and the proportion of the lease associated with the Economic Development Department office space (\$22,054).

**Work Plan Impact:** None.

**Executive Summary:** The Mason Enterprise Center (MEC) is a mixed-use business incubator that provides on-going education, networking events, and mentoring to entrepreneurs in a 10,300 square foot facility in Downtown Leesburg. MEC-Leesburg also administers and operates the Small Business Development Center (SBDC) for Loudoun County allowing the organization to serve the whole life-cycle of business needs from launch through growth and exit.

The MEC is functioning at a high level with a healthy flow of new and graduating businesses due to several reasons including support from the Town and Loudoun County. Since opening their doors in 2011, the MEC has graduated 17 member companies, of which 83% kept their offices in Leesburg. The MEC Leesburg is currently home to 40 Resident and 38 Virtual Members. Since 2011 MEC Member companies have created over 150 jobs and reported revenue increases of \$34.8 million dollars. Of the 25 companies who pursued or are pursuing their HUBZone certification, 15 have received their designation and 3 have already won major

contracts. The MEC-Leesburg is integral to economic development efforts and partners extensively with Town and County staff, the Loudoun Chamber and other service providers to support and grow the entrepreneur eco-system.

**Background:** The Town of Leesburg issued an Expression of Interest on July 23, 2009, and negotiated with the Mason Enterprise Center (MEC) to secure its participation as a partner with the Town to secure space for a business incubator. The Town Council voted unanimously to support the MEC Leesburg in August 10, 2010 by authorizing the Town Manager to execute a letter of intent and lease for 202 Church Street S.E.

Since that time, the Town and the MEC have been working together via the 2010 Memorandum of Understanding (MOU), the lease agreement, and the Advisory Board, in order to coordinate work plans.

The proposed 2015 MOU outlines project description, operation of the MEC, responsibilities of each party, financial considerations, duration, liability, and miscellaneous in order to continue the work of increasing the flow of entrepreneur companies, HUBZone businesses to expand existing businesses in Leesburg and the County.

**Attachments:** - (1) 2015 Town of Leesburg & George Mason University MOU  
(2) Draft Resolution

THIS MEMORANDUM OF UNDERSTANDING ("MOU") is effective this 1st day of October 2015 (the "Effective Date") by and between Town of Leesburg, Virginia ("Town"), and George Mason University ("Mason") (collectively, the "Parties").

WHEREAS, Mason, on behalf of its Mason Enterprise Center, and the Town entered into that certain Memorandum of Understanding with an effective date of October 1, 2015 and a termination date of September 30, 2020 ("2010 MOU"), in order to cooperate in operating an economic development incubator program, to target growing, small, home-based, and emerging businesses in the Leesburg and Loudoun area. This economic development incubator program is known as the Mason Enterprise Center – Leesburg (hereinafter referred to as the "Center"); and

WHEREAS, the Parties desire to continue to work cooperatively in operating the Center;

NOW, THEREFORE, in consideration of the mutual obligations contained herein, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

#### I. PROJECT DESCRIPTION AND BACKGROUND

A. The Parties agree that the Center will continue to target growing, small, home-based, and early stage emerging businesses ("Member Companies") in the Leesburg and Loudoun Area as members. Emerging firms in advanced technology, research and development, computer applications and service businesses are examples of businesses expected to be targeted to participate in the Center.

B. The Center shall be located at 202 Church Street, SE, pursuant to a lease between the Town and the Landlord ("Master Lease") or other suitable space as mutually agreed by the Parties. Adequate space at 202 Church Street, SE shall be made available to Leesburg's Economic Development staff and the Small Business Development Center at Mason Enterprise Center – Leesburg ("SBDC") at a rate commensurate with the square footage used. Other space leased by the Town at 202 Church Street, SE shall be subleased to Member Companies directly by Mason on behalf of the Town. The Parties will, from time to time, review and agree on the allocation of space among all Center activities and programs.

C. Mission:  
The Center and its umbrella of programs focuses the energy, skills, and intellectual capital of George Mason University and surrounding communities on entrepreneurship creation, business enterprise growth and economic development.

The Center serves as the hub of entrepreneurship support in Loudoun County. The Center administers both a business incubator fostering the accelerated growth of emerging, scalable companies, as well as, the SBDC which provides general and specific business counseling and training to help businesses launch and grow. Both organizations work together with other community partners to develop and implement a variety of activities and events aimed at enhancing business growth and improving long term success.

D. The Center shall provide Member Companies:

- Reception and package receipt service
  - Private mailbox with business address
  - Furnished office (or client may bring own)
  - Networked printer/copier; fax machine
  - High speed internet access kitchen facilities
  - Multiple conference rooms to use (*Virtual Members shall have limited hours*)
  - Business expertise and resources, including public relations services
  - Targeted mentoring and coaching
  - Trainings and networking events (occasional special trainings may require a small fee)
- E. Member Companies shall be directed through appropriate Center programs and to applicable mentoring resources.
- F. Member Companies will be offered three (3) years' access to participation in the Center subject to meeting performance criteria established by the Center. Failure to meet performance criteria may result in early termination from the program. Lease periods may be extended for Member Companies who meet Center objectives but need more time or for certain key members of the entrepreneur community. These conditions are at the recommendation and approval of the Center Director.

## II. OPERATION OF THE CENTER & RESPONSIBILITIES OF EACH PARTY

- A. Mason shall:
1. Plan and manage the operation of the Center.
  2. Develop and implement a plan to market the Center to prospective applicants; recruit and select Member Companies; and monitor and evaluate their performance in order to determine eligibility for a full term tenancy with the goal of successful completion of the incubator program in three (3) years, and the creation of a vibrant entrepreneurial community.
  3. Act as the Town's and Center's agent in negotiating, executing and managing sublease agreements with Member Companies and successfully moving companies through an incubation program. There is no requirement that the Town shall be consulted or approve any potential subtenant company.
  4. Hire, supervise and train any staff required to operate the Center based on the approved program budget and pursuant to Mason employment policies and procedures. All Center personnel shall be employees of Mason. Such employees shall be provided appropriate space in the Center at no charge to Mason provided 100% of their time is dedicated to the work of the Center.
  5. Collect and account for all revenue collected from Member Companies

and any other Center tenants.

6. Provide to the Town no less than annually, a financial plan which shall include financial statements (revenues and expenditures), forecasts and programmatic reports for the Center.
7. Identify, recruit and sustain external Center sponsors and grants to enhance and expand Center programs.
8. Pursuant to all applicable Mason policies, deposit all income and revenues for operation of the Center in appropriate Mason accounts and make disbursements from such accounts as authorized.
9. Make SBDC's counseling services, training programs and other business support services available to the Member Companies and other client businesses outside the Center. Member Companies and clients shall be responsible for fees associated with SBDC programs and services.
10. Ensure that contributions, sponsorships, or directed gifts made to the Center are held in Center accounts with separate and periodic accounting.

B. The Town shall:

1. Make monthly Master Lease payments until such time as the Center is able to make all or part of the monthly Master Lease payment.
2. Give publicity to the resources and advantages of the Center to prospective Member Companies, and SBDC Clients. Assist in publicizing Member and SBDC Client milestones and successes, as appropriate.
3. Assist in the development of marketing events, programs and milestones.
4. Provide community support to companies as they graduate out of the Center and to local SBDC client companies as requested.
5. Provide direct marketing support to prospective MEC companies in the Town of Leesburg and surrounding area.

III. FINANCIAL CONSIDERATIONS

- A. Pursuant to an agreement, separate and apart from this MOU, Loudoun County ("County") may provide funding for Master Lease payments for the Center, equipment, office supplies, and other operating expenses, not covered by Center
- B. Mason shall provide, at the Center's expense, all services as herein specified and required for the proper and intended operation of the Center and the SBDC at MEC Leesburg.
- C. Revenues generated from sublease payments of Member Companies, and

revenues and income generated from the operations of the Center by Member Companies (including, but not limited to, telephone, fax, scan and copy revenues, and service revenues) shall be deposited in a Mason account.

- D. The Parties agree that each will actively seek additional sources of financial support for the Center from other governmental or private entities.
- E. An annualized accounting of Center operations, to include an accounting of accounts held for the benefit of the Center by the Town and Mason, will be conducted at the Center's expense. All records of the Center shall be open to inspection by the Parties.
- F. The Parties hereby acknowledge and agree that the Financial Considerations herein contained shall govern Center financial operations and define the mutual financial obligations of the Parties from the date of this MOU and; that any and all prior mutual financial obligation from precedent agreements or otherwise, have been duly satisfied.

#### IV. CENTER ADVISORY BOARD

- A. An Advisory Board for the Center shall be established to perform the following functions:
  - 1. Provide expertise to the Center Staff.
  - 2. Promote the Center within the business community.
  - 3. Provide program direction for the Center and SBDC, reflective of the entities the Members and Clients represented.
  - 4. Assist in fundraising and sponsorship campaigns
- B. The Advisory Board exists with the following members:
  - 1. Town of Leesburg (2 Staff; 2 At-large Business Representatives appointed by the Leesburg Town Council)
  - 2. County of Loudoun (2 Staff; 2 At-large Business Representatives)
  - 3. George Mason University (2 Staff)
  - 4. Loudoun County Chamber of Commerce (1 Staff or Business Representative)
  - 5. MEC Resident Member (1)
  - 6. At-large (2, nominated by MEC Staff & approved by Advisory Board)
- C. Members of the Advisory Board shall be appointed by their respective entities and shall serve at the pleasure of the appointing entities.

## V. DURATION AND TERMINATION

- A. This MOU shall terminate five (5) years from its Effective Date, or upon the end of the last terminating Master Lease, whichever occurs first. The Parties mutually agree to enter into discussion annually and at least six months prior to the expiration of the MOU's term in order to consider the future of the program. This MOU may be renewed or extended by the written agreement of all Parties.
- B. Any of the Parties may terminate their participation in the program for any reason prior to the expiration of the MOU upon written notice to all other Parties. Such termination shall be effective 180 days from the date of the written notice; all obligations and liabilities of the terminating party shall cease on such date except for those incurred by the terminating party prior to the effective date of the early termination.
- C. Upon withdrawal of one or more of the Parties or upon expiration of the MOU each party may remove from the Center all personal property to which it holds title or which were acquired using funds solely of the party.
- D. Upon the expiration of the MOU, or its early termination by all of the Parties, any surplus funds remaining, after payment of all Center financial obligations, shall be distributed 50% to Mason and 50% to the Town.

## VI. LIABILITY

- A. Nothing herein shall be interpreted or operate as a pledge of the full faith and credit of the Commonwealth of Virginia or shall bind Mason to expend appropriations from the General Assembly to meet the terms of this MOU. Agencies of the Commonwealth of Virginia cannot expend funds unless appropriated by the Virginia General Assembly and may not obligate a future session of the Virginia General Assembly. Therefore, notwithstanding any provision of this MOU to the contrary, if any session of the Virginia General Assembly fails to appropriate funds for the continuance of this MOU, the MOU and all obligations hereunder shall automatically terminate upon depletion of the then currently appropriated or allocated funds.
- B. Nothing herein shall be interpreted or operate as a pledge of the full faith and credit of the Town, or shall bind the Town to appropriate funds for expenditures related to this MOU. The Town cannot expend funds unless appropriated by the Town Council of Leesburg, Virginia. The Town cannot obligate a future Town Council. Therefore, notwithstanding any provision of this MOU to the contrary, if the Town Council fails to appropriate funds for the continuance of this MOU, the MOU and all obligations hereunder shall automatically terminate upon depletion of the then currently appropriated or allocated funds.

- C. Unless expressly provided for elsewhere in this MOU, no party shall be responsible for the liabilities and other financial obligations incurred by the other Parties in performing their obligations under this MOU.
- D. The relationship of the Parties to this MOU is that of independent contractors. Nothing contained herein shall be interpreted or operate to create a relationship of partners, joint ventures, brokers, agency or employment between the Parties. It is agreed that no party shall act as the agent for the other Parties, except as expressly provided in Sections II.A.3 of this MOU, without an express written authorization to act as an agent. Each party shall maintain sole and exclusive control over its personnel and operations.
- E. The Parties agree that each party shall be solely responsible for the simple negligent acts or omissions of its employees causing harm to persons not a party to this MOU. Nothing in this MOU shall be deemed a waiver of the sovereign immunity of the Commonwealth of Virginia.

## VII. MISCELLANEOUS

- A. This MOU has been approved by the Leesburg Town Council. Pursuant to Leesburg Town Charter Section 4-2.1:1 the Town Manager shall be the duly authorized representative of the Town for the purposes of this MOU and is authorized to make all appropriations, transfers of funds, and approvals as required by this MOU without further Town Council approval.
- B. Should any section or part of any section of this MOU be rendered void, invalid or unenforceable for any reason by any court of law exercising competent jurisdiction, such a determination shall not render void, invalid or unenforceable any other section or part of any section of this MOU.
- C. This MOU may not be assigned without the prior written consent of all Parties.
- D. This MOU contains the entire understanding of the Parties and supersedes all prior oral or written agreements. No Party has relied on any oral or written representation of the others unless such representation is incorporated in this MOU. This MOU cannot be modified except by written document signed by all of the Parties.
- E. This MOU shall be governed, interpreted and construed under the laws of the Commonwealth of Virginia and any dispute arising from this MOU shall be submitted to a proper state court of the Commonwealth of Virginia.

AGREED to by the duly authorized representative of:

Approved as to Form:

Town of Leesburg

\_\_\_\_\_  
Barbara Notar, Town Attorney

\_\_\_\_\_  
Kristen C. Umstatt, Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

COMMONWEALTH OF VIRGINIA  
COUNTY OF LOUDOUN

The foregoing Memorandum of Understanding was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 2015, by Kristen C. Umstatt, as Mayor of the Town of Leesburg, Virginia, a municipal corporation.

\_\_\_\_\_  
Notary Public

My Commission expires:

\_\_\_\_\_

\_\_\_\_\_  
George Mason University

\_\_\_\_\_  
Senior Vice President for Administration and Finance

\_\_\_\_\_  
Date

COMMONWEALTH OF VIRGINIA  
COUNTY OF FAIRFAX

The foregoing Memorandum of Understanding was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 2015, by \_\_\_\_\_, as Senior Vice President for Administration and Finance, George Mason University.

\_\_\_\_\_  
Notary Public

My Commission expires:

\_\_\_\_\_

PRESENTED September 22, 2015

RESOLUTION NO. 2015-

ADOPTED \_\_\_\_\_

A RESOLUTION: AUTHORIZING THE MAYOR TO EXECUTE A MEMORANDUM OF UNDERSTANDING BETWEEN THE TOWN OF LEESBURG AND THE MASON ENTERPRISE CENTER – LEESBURG

WHEREAS, the Town has been working in collaboration with George Mason University to establish the Mason Enterprise Center – Leesburg to serve as an incubator to assist entrepreneurial businesses with space and administrative support; and

WHEREAS, the Mason Enterprise Center continues to host the Small Business Development Center program for Leesburg and Loudoun County; and

WHEREAS, the Mason Enterprise Center has been managed by George Mason University pursuant to an executed Memorandum of Understanding with the Town dated October 1, 2010; and

WHEREAS, the Town seeks to renew the Memorandum of Understanding to continue the project description, operation of the Mason Enterprise Center, responsibilities of each party, financial considerations, duration, liability and miscellaneous items.

THEREFORE, RESOLVED, by the Council of the Town of Leesburg in Virginia that the Mayor execute the renewed Memorandum of Understanding attached to this resolution.

PASSED this 22<sup>nd</sup> day of September, 2015.

\_\_\_\_\_  
Kristen C. Umstattd, Mayor  
Town of Leesburg

ATTEST:

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Clerk of Council