

**Report on Memorandum of Understanding regarding  
the Loan of \$4000 to the FairBuck Project**

**John Reed**

This MOU was drafted to define details of the agreement between the Town and the FairBuck Board, for a loan to be made in the sum of \$4000.00.

The agreement is in fact with the Fairfax Chamber of Commerce, as they are agreeing to be the initial fiscal sponsors of the FairBuck Project. The intention is for the project to evolve into a separate non-profit entity, and so the MOU contains provisions for that eventuality.

This project will establish a local mercantile token, the infrastructure and systems to support it, and an accounting structure enabling a credit system for goods and services in Fairfax. The intention of the project is to better the economic climate in Fairfax, encourage local trade, and help the Fairfax economy in a sustainable way.

In particular, this MOU details the terms of the no-interest loan (\$4000 to be returned after 2 years, or two issuances of 5000 tokens), Fairfax's ability to determine the nature of 1/3 of the "community projects" generated with excess proceeds, if any (one of the stated objectives of the project) until the time of repayment, and a continuing vote on the "FairBuck Board", which will determine fiscal and management policies. The MOU also specifies insurance requirements, specifically Directors' and Operators' insurance, workman's comp, and liability insurance for events.

The FairBuck Steering Committee expresses thanks for the support of the Fairfax Town Council for this project.

**MEMORANDUM OF UNDERSTANDING  
REGARDING THE  
"FAIRBUCK" PROJECT**

**ARTICLE 1. PARTIES AND EFFECTIVE DATE**

1.1 This Memorandum of Understanding ("Memorandum") is made and entered into this 6th day of April, 2011 between the FairBuck Board, a project of the Fairfax Chamber of Commerce, a California non profit mutual benefit corporation ("FairBuck Board") and the Town of Fairfax, a municipal corporation ("Fairfax"). The FairBuck Board and Fairfax are sometimes referred to as "Party" or "Parties" throughout this Memorandum. This Memorandum will not become effective until the later of May 15, 2011 or the date on which it has been approved and executed by the duly authorized representatives of the Parties.

**ARTICLE 2. RECITALS**

2.1 In order to provide an increase in the quality of the local economy for its residents, stimulate local and unused portions of the economy, and benefit the community in various other ways, the Parties desire to promote and provide a local mercantile token, a local services exchange and related accounting systems (the "Project").

2.2 The Parties desire to enter into this Memorandum to establish terms of a loan to be used for start-up purposes, and the benefits accruing from that relationship.

**ARTICLE 3. TERMS**

3.1 Term of Memorandum: The term of this Memorandum shall commence on May 15, 2011 and end on May 15, 2013, ("Term") unless sooner terminated as provided for in this Memorandum. The Parties may extend the Term for one or more additional years upon mutual consent in a written amendment signed by both Parties.

3.2 General Provisions: Fairfax agrees to loan the FairBuck Board the sum of \$4000.00 (the "Loan"), to serve as start up capital for the Project. The Loan will be placed in an account to be initially held by the Fairfax Chamber of Commerce, the fiscal sponsor of the Project. At a future date (within approximately 1 year from the start of this Memorandum), it is the intention of the Chamber and the FairBuck Board to evolve into two separate organizations, with the FairBuck Board becoming a separate, non - profit entity. Alternatively, the FairBuck Board may find a different fiscal sponsor.

This Loan will bear no interest and shall be repaid to Fairfax on the later of (i) May 15, 2013, or (ii) the date on which two complete issues of 5000 Fairbuck tokens have been issued< if such issuance occurs later than May 1st, 2013.

An interim steering committee ("FairBuck Steering Committee") has been established to form the structures and procedures for the permanent FairBuck non profit organization.

In exchange for the Loan, Fairfax will have one voting position on the interim FairBuck Steering Committee, and one vote on the subsequent Fairfax Currency Board, which is envisioned to be established to direct the ongoing non-profit entity.

3.2.1 FairBuck Board Responsibilities: FairBuck Board is responsible for administrative functions, including but not limited to: distributing promotional materials; providing means to secure the reserve; providing means for merchants to exchange tokens for dollars and vice-versa; providing means to distribute tokens to the general public; the hiring and paying person(s) when volunteers cannot be utilized, to perform administration functions; and, developing and regulating a system by which services can be performed and accounted for, between various members of the local community. The extent and particular requirements of these functions shall be defined as deemed appropriate by the FairBuck Board.

3.2.2 Fairfax Responsibilities: Fairfax will loan the FairBuck Board the sum of \$4000.00, to serve as 1/3 of the start-up capital for the Project. This Loan will be due and payable pursuant to Section 3.2, above, but Fairfax may delay or waive repayment in its sole discretion. Fairfax agrees not to charge any fees for facilities and property used to carry out promotional events relating to education about and promotion of the Project.

3.3 Proceeds: The proceeds from sale of collected tokens shall be retained by the FairBuck Board, to serve as a reserve, then for use in administration and other costs related to the FairBuck, then used to repay loans to initial investors, and then used to pay for projects benefiting the Fairfax Community ("Community Projects"). Until such time as the Loan principal is repaid, the Town is entitled to determine expenditure of 1/3 of any allocation of proceeds from tokens towards Community Projects. After Loan repayment or forgiveness, allocation of ongoing proceeds shall be determined solely by the FairBuck Currency Board. Proceeds from other activities or programs launched by the FairBuck Board, other than the sale of tokens, are beyond the scope of this Memorandum.

3.6 Indemnification: The FairBuck Board hereby agrees to defend, indemnify and hold Fairfax harmless from and against all claims, damages, losses and expenses (including, but not limited to, reasonable attorney's fees and other costs and expenses incident to proceedings or investigations for the defense of any claim), caused in whole or in part by any willful misconduct or negligent act or omission by the FairBuck Board or any of its contractors, subcontractors, or anyone directly or indirectly employed by it, or anyone for whose acts it may be liable, except where caused by the active gross negligence or willful misconduct of Fairfax.

3.7 Insurance: The FairBuck Board (and any applicable members of the Fairfax Chamber of Commerce, or any applicable members of a possible subsequent fiscal sponsor, during the time of the FairBuck Board's status as a project thereof) will be insured with Directors and Operators insurance, sufficient to cover assets, liabilities, and reserves.

Additionally, for any event held for the purposes of promoting the FairBuck liability insurance shall be procured in the amounts specified below.

Such insurance shall name Fairfax as an additional insured and insure against all claims for death and injuries to persons and damages to property which may arise from or in connection with the use of Fairfax's funds or property in support of the Project, including, but not limited to, injuries to third parties such as participants and invitees.

3.7.1 Minimum Limits of Insurance: Coverage shall provide limits of no less than:

1. General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a



3.14 Non-Assignability: This Memorandum may not be assigned by either Party, except by the Fairfax Chamber of Commerce to the FairBuck Board, upon the latter's incorporation as a separate non-profit entity, or to a subsequent fiscal sponsor.

3.15 Waiver: No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.

3.16 Invalidity and Severability: If any portion of this Memorandum is declared invalid, illegal, or otherwise unenforceable by a court or competent jurisdiction, the remaining provisions shall continue in full force and effect.

3.17 Cooperation; Further Acts: The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as may be necessary, appropriate or convenient to attain the purposes of this Memorandum.

3.18 Governing Law: This Memorandum shall be governed by the laws of the State of California. Venue shall be in Marin County.

3.19 No Third Party Beneficiaries: There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

3.20 Incorporation of Recitals: The Recitals are incorporated herein and made an operative part of this Memorandum.

3.21 Counterparts: This Memorandum may be signed in counterparts, each of which shall constitute an original.

<p>On behalf of the Town of Fairfax:</p>  <hr/> <p>Michael Rock Town Manager Date: _____</p>	<p>On behalf of the Fairfax Chamber of Commerce:</p>  <hr/> <p>David Smadbeck Co-President Date: _____</p>
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