

**RESOLUTION NO. 674**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RUSTON, WASHINGTON, AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH POINT RUSTON LLC FOR MEDIATION.**

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WHEREAS, the City of Ruston has been engaged with Point Ruston LLC for over a decade as the permit approval authority for the Point Ruston Development Project; and

WHEREAS, a number of issues have accumulated over the years between the City and Point Ruston which remain unresolved; and

WHEREAS, submitting these issues to mediation between Point Ruston and the City may facilitate the resolution of some or all of the outstanding issues; and

WHEREAS, the City Council finds it in the public interest to authorize the Mayor to execute the proposed Dispute Resolution Agreement in substantially the form that is attached to this Resolution as Exhibit “1”;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF RUSTON, WASHINGTON, DOES HEREBY RESOLVE AS FOLLOWS:**

**Section 1.** Authorization of Agreement. The Mayor is hereby authorized to execute the Dispute Resolution Agreement with Point Ruston in substantially the form attached hereto as Exhibit “1”.

RESOLVED this 6<sup>th</sup> day of February, 2018.

APPROVED:

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Bruce Hopkins, Mayor

ATTEST/AUTHENTICATED:

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Judy Grams, City Clerk

FILED WITH THE CITY CLERK: 2-6-2108  
PASSED BY THE CITY COUNCIL: 2-6-2018  
RESOLUTION NO.: 674

**EXHIBIT “1”**

**Dispute Resolution Agreement**

**between**

**Ruston and Point Ruston**

**DISPUTE RESOLUTION AGREEMENT  
BETWEEN  
CITY OF RUSTON AND POINT RUSTON**

THIS DISPUTE RESOLUTION AGREEMENT (“Agreement”) is entered into this 6th day of February, 2018 (the “Effective Date”) by and between the City of Ruston, a Washington municipal corporation (“Ruston”) and Point Ruston, LLC, a Washington limited liability company (separately “Point Ruston” and, together the “Parties”).

1. The Parties hereby agree that they will engage in mediation concerning open issues (“Issues”) related to the Point Ruston development project in Ruston. The Issues will be defined in issue lists exchanged by the parties within seven (7) days after execution of this Agreement.
2. Mediation Procedures: The Parties will choose a Mediator by each submitting three names to the other party within 5 days of the Effective Date. All proposed mediators will have significant experience in land use and development matters and be located in either Pierce or King County. If the Parties cannot agree on the Mediator after exchanging their respective lists, then on the 6<sup>th</sup> day following the Effective Date the Mediator will be chosen by a coin flip, as follows: on this 6<sup>th</sup> day the Parties will each strike two names from the other party’s list with the choice between the final two remaining names (one from each party) being decided on a coin flip between the parties at Ruston City Hall. The name chosen by coin-flip will conduct the Mediation. Once the Mediator is selected, the Parties will establish the schedule for the mediation, which shall be scheduled to commence within 21 days of the Effective Date. The Parties will provide written materials as directed by the Mediator prior to start of mediation to outline and respond to any issues to assist in creating a productive mediation. The Parties agree to mediate in good faith. The Parties recognize that mediation is a voluntary settlement process and that the Mediator has no authority to impose a settlement on the Parties.
3. Mediator: Before accepting this appointment, the Mediator has conducted the inquiry required by RCW 7.07.080 and disclosed any applicable facts or relationships.
4. Fees: The Parties have agreed equally share the costs of mediation and/or arbitration. If the parties later decide to submit the dispute to arbitration, that shall be done under a separate agreement.
5. Confidentiality: The Parties and their legal representatives understand and agree that all information provided in conjunction with the mediation sessions is privileged and neither subject to discovery nor admissible as evidence in a proceeding unless waived or precluded by RCW 7.07.040. The Parties will neither subpoena nor require the Mediator to testify or produce records, notes, or work product in any future proceedings.

6. Representation: The Parties recognize that the Mediator is not providing legal advice or counsel concerning any party's legal rights. Both Parties will be represented by an attorney or attorneys before, during, and after the mediation session and before finalizing any agreement affecting the Parties' legal rights and obligations.

CITY OF RUSTON

POINT RUSTON, LLC

\_\_\_\_\_  
Bruce Hopkins, Mayor

Date: \_\_\_\_\_

\_\_\_\_\_  
Loren Cohen, Managing Director

Date: \_\_\_\_\_