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**Testimony of Walter Smith, Executive Director  
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**Before the Council of the District of Columbia  
Committee on Economic Development**

**March 19, 2007**

Good morning Councilmember Brown and other members of the Committee. My name is Walter Smith and I am the Executive Director of the DC Appleseed Center for Law and Justice. Thank you for allowing me to testify on this very important topic. I am here today to offer comments on the Exclusive Rights Agreement (“ERA”) that the Anacostia Waterfront Corporation (“AWC”) has negotiated with Hoffman-Struever Waterfront LLC (“the Development Team”), as well as on PR17-105, the Southwest Waterfront Revised Disposition Approval Resolution of 2007 (“the Proposed Resolution”).

For more than two years, DC Appleseed has been working closely with the AWC, community groups, and other interested stakeholders, in order to ensure that three important requirements in the Anacostia Waterfront Corporation Act of 2004, D.C. Official Code § 2-1223.01, *et seq.* (“the AWC Act”) are met. Specifically, we are interested in: (1) ensuring that 15% of the new housing that is built along the Anacostia Waterfront is affordable to low-income families, and another 15% is affordable to moderate-income families; (2) creating a system to prepare D.C. residents to take at least 51% of the new jobs created by the development, with residents of Ward 8 taking 20% of the jobs; and (3) restoring the Anacostia River and watershed. To examine these issues, we have put together project teams consisting of DC Appleseed staff and board members, as well as community and advocacy groups, *pro bono* accountants from Deloitte & Touche LLP, and *pro bono* attorneys from Steptoe & Johnson, LLP and Patton Boggs, LLP. We have been very fortunate to work closely with knowledgeable, productive, high-level AWC staff on all of these issues for the duration of our project, as well as to have had very productive meetings with the Development Team since they have been chosen. We have described our work, and the work that AWC has done to meet the three “social requirements” that we have identified in previous testimony before the Council, so today I will limit my comments to the ERA.

We believe that the terms of ERA show the dedication of both AWC and the Development Team to meeting the three “social requirements” that we have identified. We have seen first-hand both the Development Team’s dedication, as well as the expertise that they bring to this project in all three areas. The ERA is only the beginning of a long process toward meeting the three requirements, and we hope that the Council takes this opportunity today to reaffirm its commitment to the goals of increased affordable housing and job opportunities for local residents, as well as restoring the Anacostia River and watershed. We also hope that the Council recognizes that while meeting these goals is worthwhile, achieving them will not be easy. These are cutting-edge, progressive goals, and AWC and the Development Team have put

in place mechanisms designed to meet them. However, their ultimate achievement will require the continued support of the Council.

I would like to comment first about the specific terms of the Council's resolution, and then about the terms of the ERA, as each relates to the three social requirements.

### **The Resolution**

DC Appleseed applauds the Council for including language in the Proposed Resolution that acknowledges the importance of *all* requirements of the AWC Act, especially those related to affordable housing, jobs for local residents, and restoration of the District's waterways. The language of Section 2(d) that describes the Council's findings is very expansive. The pertinent language reads:

The Council finds that the terms and conditions upon which the AWC will dispose of interests in the [Southwest Waterfront] Property *will comport* with the requirements of the [AWC] Act, and in the area[] of . . . workforce development, the proposed disposition *will exceed any requirements* imposed upon the AWC or this disposition by applicable laws.

Proposed Resolution at § 2(d) (emphasis added).

Because the ERA is only the beginning of more specific negotiations, we believe that this section of the Resolution should be used to reinforce the Council's commitment to achieving the AWC Act's social requirements in the future, and indicate its confidence that AWC and the Development Team will ultimately agree on terms and conditions that will achieve those requirements. We believe that changing the term "finds" to "intends" would achieve this end.<sup>1</sup> The Council cannot know the future for certain. But this minor technical change will show the Council's commitment to giving AWC and the Development Team the support that they will need to achieve the important requirements that we have identified in the AWC Act.

### **The ERA**

DC Appleseed has been impressed with the Development Team that AWC has selected for the Southwest Waterfront. We think the various members of the Team bring significant expertise in developing affordable housing, creating employment opportunities, and designing environmentally friendly developments. We also think the ERA reflects the commitment of AWC and the Development Team toward meeting the three requirements. Our view is that the Council should approve the ERA. At the same time, our view is that a number of details remain to be addressed by AWC and the Development Team related to those requirements and

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<sup>1</sup> The revised section would then read: "The Council intends that the terms and conditions upon which the AWC will dispose of interests in the [Southwest Waterfront] Property will comport with the requirements of the [AWC] Act, and in the areas of both local, small and disadvantaged business involvement in the project and workforce development, the proposed disposition will exceed any requirements imposed upon the AWC or this disposition by applicable laws."

presumably they will be covered in the final land disposition agreement. We hope to monitor those details and think it is worth mentioning what some of those will be.

### Housing

The requirements in the AWC Act for affordable housing are very specific and clear; the Council took an important step forward by enacting what we think is possibly one of the most progressive affordable housing mandates in the country. The Development Team that has been assembled includes some of the leaders in developing affordable, mixed-income communities, both locally and nationally. Given their track record, we have no reason to doubt the ability of the Development Team to create quality affordable housing. We applaud AWC and the Development Team for demonstrating their commitment to affordable housing by stating in the ERA that the affordable units will be built on a schedule proportionate to the market-rate units. The main concern is how the affordable units will be subsidized.

Given unlimited subsidy, any amount of affordable housing is possible. But the federal and local subsidies available to finance the affordable housing in the Southwest Waterfront are not unlimited, and there are many other areas around the District where quality affordable housing is needed that will be competing for those limited funds. The Council should continue to support AWC and the Development Team as they search for ways to make the 286 planned units of housing affordable for low- and moderate-income families a reality.

### Employment

The requirements in the AWC Act related to hiring local residents for the jobs created by the development along the Southwest Waterfront are very similar to the requirements of existing law that have been in place for many years. As we have talked to many stakeholders with years of experience in working to create job opportunities for local residents, they have been unanimous in declaring that the current system is not working well. Despite requirements that employers who receive public funding hire District residents, insufficient numbers of local residents are actually being hired – not nearly the numbers required by various statutes. The one recurring theme that we have heard is that there is not good coordination among the expectations of employers, the capacity of workforce development organizations, and residents who want access to the jobs that are created.

To their credit, AWC and the Development Team have embraced the use of a workforce development concept that would be a first in the District – a workforce intermediary (“WI”). In other jurisdictions around the country, WIs have been used successfully to coordinate the needs of employers and potential employees with the capacity of workforce development programs. The Development Team has agreed to spend \$1 million over the first three years of the development to fund the WI. AWC has selected four applicants through a Request for Qualifications that will compete to be the WI. Creating a WI nearly from scratch will not be an easy task, and we hope that the Council will support this new, groundbreaking concept for the District as AWC and the Development Team work to provide good jobs for District residents and to meet the expectations of employers.

Environment

The Development Team has committed to achieve Leadership and Excellence in Environmental Design (“LEED”) Silver certification for the entire Southwest Waterfront development. We are pleased that the development team has made a commitment in the ERA that appears to go beyond the requirements recently enacted by the Council in the Green Building Act of 2006, B16-0515. While achieving LEED Silver is laudable, because of the way that points are awarded in the LEED certification system it is possible that the Southwest Waterfront development could be certified LEED Silver and still pollute the District’s waterways. The LEED certification system awards points for various environmentally friendly design techniques. These points are awarded in a variety of categories, and not all of those categories relate directly to stormwater remediation or water quality. We look forward to working with the Development Team and AWC to strengthen stormwater remediation mechanisms.

The environmental standards that the AWC has drafted would ensure that stormwater issues – and water quality issues in general – are addressed as the development goes forward. The public comment period for those standards has just closed. Once those comments have been considered, the standards will go before the AWC Board for approval. We strongly support those standards and believe their implementation will help meet the restoration requirements in the AWC Act.

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We are excited about the tremendous opportunities that the development along the Anacostia River will provide for the District and its residents. We are pleased that the Council has recognized – both in this Proposed Resolution and in the AWC Act – the importance of ensuring that these opportunities are available to *all* residents. And we are encouraged by the commitment that AWC and the Development Team have made to meet the important statutory requirements that we have identified.

We will continue to work with AWC and the Development Team as they move forward to make the exciting vision of the Southwest Waterfront a reality. We hope that the Council approves the Proposed Resolution and will support the AWC and the Development Team as they work to meet the three social requirements that will help bring the benefits of economic development to all residents of the District.

Thank you for your time, and I will be happy to answer any questions that you may have.