## COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND 2008 Legislative Session

Resolution No.	CR-72-2008	
Proposed by	Council Member Dean	
Introduced by	Council Members Dean, Exum and Bland	
Co-Sponsors		
Date of Introduction	July 15, 2008	

## RESOLUTION

## A RESOLUTION concerning

Minority Business Enterprise Program

For the purpose of adopting the findings, results and recommendations of the study of the County's Minority Business Enterprise program.

WHEREAS, the Supreme Court of the United States 1989 decision in the case of *City of Richmond v. J.A. Croson Co.*, set forth that race-conscious affirmation action programs, including government contracting, are subject to strict scrutiny and must be narrowly tailored to achieve a compelling government purpose and placed the burden on government entities to justify their programs, usually undertaking a disparity study for the relevant marketplace, the availability of minority contractors and their utilization by the contracting agencies; and

WHEREAS, in 1989 the County conducted a disparity study entitled "An Examination of Prince George's County Minority Business Program", conducted by the Minority Business Enterprise Legal Defense and Education Fund, Inc., which formed the factual and legal basis for the County Minority Business Enterprise program established in 1992 in CB-1-1992 (Division 6. Special Provisions, Subdivision 1. Minority Business Opportunities Program, Sec. 10A-136 et seq.); and

WHEREAS, in 2005 the County contracted with D.J Miller & Associates for the purpose of having an additional disparity study conducted, which resulted in the issuance in November 2006 of a report entitled "The Prince George's County Government Disparity Study Final Report" (herein the "Final Report"); and

WHEREAS, the Final Report covered the period of Fiscal Year 1994 through Fiscal Year 2004 (July 1, 1993 to June 30, 2004) for collecting and developing evidence regarding the nature

and the extent of discrimination against minority and female business enterprises ("MFBEs"), if any, and other barriers to equitable participation with Prince George's County; and

WHEREAS, the Final Report consists of ten chapters, including an Executive Summary; Introduction; Legal Analysis; Statistical Analysis of MFBE Availability; Statistical Analysis of MFBE Utilization; Statistical Analysis of MFBE Disparity in Payments and Contracting; Procurement Analysis, Anecdotal Comments from the Marketplace, Analysis of Private Sector Disparities; Consideration of Race-Neutral Alternatives; and Conclusions and Recommendations; and

WHEREAS, the Final Report contains an overview the methodologies of qualitative and quantitative assessments of the Prince George's and Washington-Baltimore metro marketplace; the availability and utilization of MFBEs in that marketplace; evidence of continuing discrimination by survey and interviews with contractors, vendors and business owners; a legal analysis of the requirements of local Minority Business Enterprise programs as set forth in the *Croson* decision; and recommendations for suggested changes to the County's Minority Business Enterprise Program and the County's procurement practice and policies; and

WHEREAS, the Final Report found statistically significant underutilization in MFBE participation in Prince George's County contracting and procurement activity in the Washington-Baltimore marketplace in several areas and recommends that Prince George's County adopts a new MFBE program, including establishing a sunset date, changes in purchasing procedures and practices as well as the use of both race/gender neutral and race/gender conscious policies in goal setting in the County's Minority Business Enterprise Program; and

WHEREAS, the Final Report represents the facts, findings and conclusions which form the basis of the continuation and modification of the County's Minority Business Enterprise Program; and

WHEREAS, the County Council has reviewed the results, findings and recommendations of the Final Report; and

NOW, THEREFORE, BE IT RESOLVED by the County Council of Prince George's County, Maryland, that the results, findings and recommendations of the Final Report incorporated herein by reference, and are hereby adopted as the facts, findings and conclusions forming the basis for the continuation of the Minority Business Opportunity Program in Prince George's County, including all related and amended Code provisions and regulations.

Ц	BE IT FURTHER RESOLVED that a copy of the study shall be filed with the Clerk of the
2	Court.
	Adopted this 15 <sup>th</sup> day of July, 2008.
	COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
	BY: Samuel H. Dean Chairman
	ATTEST:
	Redis C. Floyd Clerk of the Council