Subject:	Attachments:
Approve Sole Source Exception Findings and Resolution No. 8-19/20 – Adoption of Sole Source Findings and Approval of Exception Pursuant to Public Contract Code Section 3400 (c) (2) - Sumitomo Air-Blown Fiber & Related Accessories	• **Exhibit A-1 - Facility Justification Transmittal** • **Exhibit B-1 - Architect and Engineer Letter and Recommendations** • **Exhibit C-1 - Legal Report and Recommendations** • **Resolution No. 8-19/20**
Category: **Action Items**	**Type of Board Consideration:** **Information Consent Action** ✓
Recommended: **Tim Flood** **Vice President, Administrative Services**	**Approved for Consideration:** **Sunita V. Cooke, Ph.D.** **Superintendent/President**

BACKGROUND

District staff and Kitchell CEM, Inc. ("PMO") have evaluated the attached item as an exception as permitted by Public Contract Code section 3400 (c) (2) as described and identified hereinbelow. Exhibit A-1, submitted herewith, is district staff and the PMO's "Facility Justification Transmittal" containing district staff and the PMO's reports and recommendations for the proposed item.

Steinberg Hart ("Architects") has reviewed the attached potential item identified by district staff and the PMO, Exhibit A-1 hereto, and has submitted herewith one letter/memorandum as Exhibit B-1 containing the architects' reports and recommendations for the proposed item.

STATUS

District staff, the PMO, Steinberg Hart, and outside legal counsel, John P. Dacey, have evaluated the potential item against the following factors:

1. what particular materials, products, things, systems, or services are currently in use or being placed in use throughout the district;
2. where in the district the existing particular materials, products, things, systems, or services are currently in use or being placed in use throughout the district;
3. how long they have been in use and the district's dependency/reliance on them;
4. whether there have been any significant operational and/or maintenance issues;
5. the current life/longevity of the existing particular materials, products, things, systems, or services;
6. the need to have a totally integrated/compatible particular material, product, thing, system, or service;
7. security, safety and related reason concerns;

8. where the new particular materials, products, things, systems, or services will be installed; and
9. what negative resulting consequences (cost, maintenance, safety, security, or otherwise) are likely to occur if different materials, products, things, systems, or services are put in place.

The potential item is listed below:

#	**Proposed Item and Manufacturer**	**Exception under PCC section 3400**
1.	Sumitomo Air-Blown Fiber & Related Accessories	**PCC section 3400 (c) (2)**

The potential item is being proposed for use on all applicable future Measure MM projects, and all projects district-wide, regardless of funding line(s).

Outside legal counsel for the district, John P. Dacey, Esq., Bergman Dacey Goldsmith, PLC, has reviewed and evaluated the potential item referenced in Exhibit A-1 and Exhibit B-1, measured the contents thereof against the foregoing factors and the requirements of Public Contract Code section 3400, and the exception found within Public Contract Code section 3400 (c) (2). Mr. Dacey has concluded that this item meets the requirements of the aforesaid statute as set forth in the legal memorandum submitted herewith as Exhibit C-1.

RECOMMENDATION

1. Adopt Sole Source Exceptions Findings specified in Exhibits A-1 and Exhibit B-1; and
2. Approve Resolution No. 8-19/20 – Adoption of Sole Source Findings and Approval of Exception Pursuant to Public Contract Code Section 3400 (c) (2) - Sumitomo Air-Blown Fiber & Related Accessories, set forth below.