



Department of General Services  
Procurement Division  
707 Third Street, 2<sup>nd</sup> Floor  
West Sacramento, CA 95605-2811

State of California  
**CONTRACT NOTIFICATION**  
MANDATORY

|                               |   |
|-------------------------------|---|
| CONTRACT NUMBER:              | 1-09-91-08A   |
| DESCRIPTION:                  | Biodiesel B5 & B20  |
| DELIVERY AREA(S):             | District 2, 3, 4, 6, 7, 9, and 10<br>(Counties listed on Page 2)  |
| CONTRACTOR(S):                | Falcon Fuels Inc.   |
| CONTRACT TERM:                | 01/09/2009 through 01/ 08/2011  |
| DISTRIBUTION LIST:            | Posted Electronically on<br><a href="http://www.pd.dgs.ca.gov/contracts/91-08.htm">http://www.pd.dgs.ca.gov/contracts/91-08.htm</a> |
| STATE CONTRACT ADMINISTRATOR: | Brian A. Sims<br>(916) 375-4452<br>Brian.sims@dgs.ca.gov  |

*Original Signed*

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**Brian A. Sims, Contract Administrator**

Date: 01/09/2009

**Contract (Mandatory) 1-09-91-08A**  
**Contract Notification and User Instructions**

**1. SCOPE**

The State’s contract with Falcon Fuels Inc. (contractor) provides Biodiesel at contracted pricing to the State of California and local governmental agencies in accordance with the requirements of Contract # 1-09-91-08A. The contractor shall supply the entire portfolio of products as identified in the contract and will be the primary point of contact for data collection, reporting, and distribution of Biodiesel to the State.

Note: Contract # 1-09-91-08A is based on California Department of Transportation (DOT) Delivery Districts as follows. Delivery locations within the following districts are restricted to the delivery locations identified on Attachment 2 – Delivery Location Listing.

| District | Counties   |
|----------|--|
| 2        | Siskiyou, Modoc, Trinity, Shasta, Lassen Tehama, Plumas                                    |
| 3        | Glenn, Butte, Colusa, Sutter, Yuba, Sierra, Nevada, Placer, Yolo, El Dorado, Sacramento    |
| 4        | Sonoma, Napa, Marin, Solano, San Francisco, Contra Costa, Alameda, Santa Clara, San Mateo, |
| 6        | Madera, Fresno, Tulare, Kings, Kern  |
| 7        | Ventura, Los Angeles   |
| 9        | Mono, Inyo Bakersfield   |
| 10       | Amador, Alpine, Alaveras, Tuolumne, San Joaquin, Mariposa, Stanislaus, Merced              |

**Note:** DOT Districts 1 and 5 were not awarded at this time.

The contract term is for two (2) years with an option to extend the contract for two (2) additional one (1) year period or portion thereof. The terms, conditions, and prices for the contract extension option shall be by mutual agreement between the contractor and the State. If a mutual agreement cannot be met the contract may be terminated at the end of the current contract term.

**2. CONTRACT USAGE/RULES**

A. State Departments

- The use of this contract is mandatory for all State of California departments.
- Ordering departments must adhere to all applicable State laws, regulations, policies, best practices, and purchasing authority requirements, e.g. California Codes, Code of Regulations, State Administrative Manual, Management Memos, and State Contracting Manual Volume 2 and 3, as applicable.
- Prior to placing orders against this contract, departments must have been granted non-IT purchasing authority by the Department of General Services, Procurement Division (DGS/PD) for the use of this statewide contract. The department’s current purchasing authority number must be entered in the appropriate location on each purchase document. Departments that have not been granted purchasing authority by DGS/PD for the use of the State’s statewide contracts may access the Purchasing Authority Application at <http://www.pd.dgs.ca.gov/deleg/pamanual.htm> or may contact DGS/PD’s Purchasing Authority Management Section by e-mail at [pams@dgs.ca.gov](mailto:pams@dgs.ca.gov).

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- Departments must have a Department of General Services (DGS) agency billing code prior to placing orders against this contract. Ordering departments may contact their Purchasing Authority contact or their department's fiscal office to obtain this information.

B. Local Governmental Agencies

- Local governmental agency use of this contract is optional.
- Local government agencies are defined as "any city, county, city and county, district or other governmental body or corporation, including the California State Universities (CSU) and University of California (UC) systems, K-12 schools and community colleges", empowered to expend public funds for the acquisition of products, per Public Contract Code Chapter 2, Paragraph 10298 (a) (b). While the State makes this contract available to local governmental agencies, each local governmental agency should determine whether this contract is consistent with its procurement policies and regulations.
- Local governmental agencies shall have the same rights and privileges as the State under the terms of this contract. Any agencies desiring to participate shall be required to adhere to the same responsibilities as do State agencies and have no authority to amend, modify or change any condition of the contract.
- Local governmental agencies must have a Department of General Services (DGS) agency billing code prior to placing orders against this contract. DGS agency billing codes may be obtained by emailing the DGS billing code contact with the following information:
  - Local governmental agency
  - Contact name
  - Telephone number
  - Mailing address
  - Facsimile number and e-mail address

DGS Billing Code Contacts: [Marilyn.ebert@dgs.ca.gov](mailto:Marilyn.ebert@dgs.ca.gov) or [Wilson.lee@dgs.ca.gov](mailto:Wilson.lee@dgs.ca.gov)

- C. Unless otherwise specified within this document, the term "ordering agencies" will refer to all State departments and/or local governmental agencies eligible to utilize this contract. Ordering and/or usage instructions exclusive to State departments or local governmental agencies shall be identified within each article.

**3. DGS ADMINISTRATIVE FEES**

The DGS will bill each ordering department an administrative fee for use of this statewide contract. The administrative fee should NOT be included in the order total, nor remitted before an invoice is received from DGS.

For current fees, click on "DGS Price Book" at: <http://www.ofs.dgs.ca.gov/Price+Book/P/Purchasing.htm>.

**4. CONTRACT ADMINISTRATION**

Both the State and the contractor(s) have assigned contract administrators as the single points of contact for problem resolution and related contract issues.

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**State Contract Administrator:** Brian A. Sims  
**Address:** DGS/Procurement Division  
707 Third Street, 2<sup>nd</sup> Floor  
West Sacramento, CA 95605  
**Telephone:** (916) 375-4452  
**Facsimile:** (916) 375-4613  
**E-Mail:** [brian.sims@dgs.ca.gov](mailto:brian.sims@dgs.ca.gov)

**Contractor:** **Falcon Fuels Inc**  
**Contract Administrator:** Carol Chavez  
**Address:** 7300 Alondra Blvd. 204  
Paramount CA 90723  
**Telephone:** (562) 272-4226  
**Facsimile:** (562) 272-4232  
**E-Mail:** [marketing@falconfuelsinc.com](mailto:marketing@falconfuelsinc.com)

**5. PROBLEM RESOLUTION/SUPPLIER PERFORMANCE**

Ordering departments and/or contractors shall inform the State Contract Administrator of any technical or contractual difficulties encountered during contract performance in a timely manner. This includes and is not limited to informal disputes, supplier performance, outstanding deliveries, etc.

For contractor performance issues, ordering departments must submit a completed [Supplier Performance Report](#) via email or facsimile to the State Contract Administrator identified in Article 4. The ordering department should include all relevant information and/or documentation (i.e. Purchase documents).

**6. CONTRACT PRICE STRUCTURE**

The contract cost is based on two factors: *Region Base Market Cost* and the *Differential Price*. The following formula outlines the contract price per gallon to be paid by the ordering agency.

**Contract Pricing Formula:**

$$\begin{array}{l} \text{REGION BASE MARKET COST} + \text{DIFFERENTIAL} = \text{COMPOSITE COST} \\ \text{(Calculated using OPIS data)} \qquad \qquad \qquad \text{(Total Price per Gallon)} \end{array}$$

A. Region Base Market Cost:

The Region Base Market Cost is calculated weekly by the State's Contract Administrator and is available on the DGS website at [www.pd.dgs.ca.gov/contracts/fuelrates](http://www.pd.dgs.ca.gov/contracts/fuelrates).

**Note:** For the base price of the Biodiesel B5, ordering agencies shall use daily "Time of Delivery" "Rack Average" price quoted in the OPIS for product description OPIS GROSS WHOLESAL B5 SME BIODIESEL PRICE. For the base price of the Biodiesel B20, ordering agencies shall use the daily "Time of Delivery" "Rack Average" price quoted in the OPIS for product description OPIS GROSS WHOLESAL B20 SME BIODIESEL Price.

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**B. Differentials**

The differential costs for each district are listed below:

| <b>District</b> | <b>Counties (within District)</b>   | <b>Region Base Market Price (RBMP)</b> | <b>B5 Differential</b> | <b>B20 Differential</b> |
|-----------------|---|--|------------------------|-------------------------|
| <b>2</b>        | Siskiyou, Modoc, Trinity, Shasta, Lassen, Tehama, Plumas                                  | EUREKA                                 | \$0.5874               | \$0.5874                |
| <b>3</b>        | Glenn, Butte, Colusa, Sutter, Yuba, Sierra, Nevada, Placer, Yolo, El Dorado, Sacramento   | SACRAMENTO                             | \$0.1995               | \$0.1995                |
| <b>4</b>        | Sonoma, Napa, Marin, Solano, San Francisco, Contra Costa, Alameda, Santa Clara, San Mateo | SAN JOSE                               | \$0.2878               | \$0.2878                |
| <b>6</b>        | Madera, Fresno, Tulare, Kings, Kern   | FRESNO                                 | \$0.3878               | \$0.3878                |
| <b>7</b>        | Ventura, Los Angeles  | LOS ANGELES                            | \$0.1496               | \$0.1496                |
| <b>9</b>        | Mono, Inyo Bakersfield  | BAKERSFIELD                            | \$0.9498               | \$0.9498                |
| <b>10</b>       | Amador, Alpine, Alaveras, Tuolumne, San Joaquin, Mariposa, Stanislaus, Merced             | STOCKTON                               | \$0.2822               | \$0.2822                |

All Differential prices are:

- Exempt from: Federal Excise Tax
- Exclusive of: State Sales Tax, Local Sales Tax, California Motor Vehicle Fuel Tax, Leaking Underground Storage Tank Tax, Oil Spill Liability Trust Fund Tax.

**7. SPECIFICATIONS**

All products must conform to the attached State of California Bid Specification Number(s) 9130-0495 and 9130-0496, dated 10/24/08 (Attachment 1).

Additional Requirements are as follows:

- The final blend furnished shall be thoroughly mixed at the time of delivery. It is recommended that each fuel delivery be filtered 30 micron or finer during the truck-to customer tank transfer. Filtering requirement shall become mandatory if tanker contamination is detected. Contractor shall provide adequate pump and filtering equipment.
- Contractor shall provide documentation that the final blend meets the Biodiesel blend requirement by volume.
- Blended fuel shall not deteriorate in ordinary storage and shall not form excessive gum, resin, or deposits during storage.
- Blended Biodiesel shall be delivered within 72 hours after filling the delivery truck tank.

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- Contractor shall immediately notify the California Department of General Services and the ordering agency if any changes in Biodiesel feed stocks and additives are made.
- Contractor shall provide Material Safety Data Sheets (MSDS) for the Biodiesel and all MSDS of all chemicals intentionally added into the blended Biodiesel including additives and biocides.

## 8. PURCHASE EXECUTION

### A. State Departments

State departments must use the Purchasing Authority Purchase Order (Std. 65) for purchase execution. An electronic version of the Std. 65 is available at the Office of State Publishing web site: <http://www.dgs.ca.gov/osp> (select Standard Forms).

All Purchasing Authority Purchase Orders (Std. 65) must contain the following:

- Agency Order Number (Purchase Order Number)
- Ordering Agency Name
- Agency Billing Code
- Purchasing Authority Number
- Leveraged Procurement Number (Contract Number)
- Supplier Information (Contact Name, Address, Phone Number, Fax Number, E-mail)
- Line Item number
- Quantity
- Unit of Measure
- Product Description
- Delivery Location (from Attachment 2 – Delivery Location Listing)
  - **Important Note:** Delivery locations must be on Attachment 2 – Delivery Location Listing before an order is issued to the contractor. (See Article 12, Section H, Modification of Contract/Addition of Delivery Location to add/modify a delivery location for this contract.)
- Region Base Market Price
- Differential Price
- Composite Price
- Extension Price

### B. Local Governmental Agencies

Local governmental agencies may use their own purchase document for purchase execution. The purchase documents must include the same data elements as listed above (Exception: Purchasing Authority Number is used by State departments only).

### C. All ordering agencies will submit a copy of executed purchase documents to:

DGS - Procurement Division (IMS# Z-1)  
Attn: Data Entry Unit  
707 Third Street, 2<sup>nd</sup> Floor, MS 2-212  
West Sacramento, CA 95605-2811

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**9. ORDERING PROCEDURE**

Ordering departments are to submit appropriate purchase documents directly to the contractor(s) via one of the following ordering methods:

- U.S. Mail
- Facsimile
- Email

**Reminder:** Ordering agency's delivery location must be on Attachment 2 – Delivery Location Listing before an order is issued to the contractor.

The ordering information for the contractor is listed below:

Company Name: Falcon Fuels Inc  
Address: 7300 Alondra Blvd  
Paramount CA 90723  
Facsimile: (562) 272-4226  
Email: [marketing@falconfuelsinc.com](mailto:marketing@falconfuelsinc.com)

When using any of the ordering methods, all State departments must conform to proper State procedures.

**10. MINIMUM ORDER**

The minimum order for this contract shall be: Seventy percent (70%) of tank capacity for below ground tanks and sixty (60%) of tank capacity for above ground tanks. Deliveries for less than the minimum order quantity shall be delivered at the contract price plus a "PREMIUM" of not more than ten cents (\$0.10) per gallon. It will be the contractor's responsibility to deliver the "Net" gallons necessary to fill orders that are placed that meet or exceed the minimum order quantity required.

**11. ORDER ACKNOWLEDGEMENT**

The contractor will provide the ordering agencies with an order receipt acknowledgement containing a unique order number either via e-mail or facsimile within 48 hours of receipt of order.

The acknowledgement will include:

- Ordering Agency Name
- Agency Order Number (Purchase Order Number)
- Purchase Order Total Cost
- Delivery Completion Date

**12. DELIVERY SCHEDULES**

A. Delivery Timeline

Delivery is to be completed in full within three (3) working days after receipt of order (ARO) by the contractor during regular working hours, 8:00 a.m. to 5:00 p.m., Monday through Friday except State observed Holidays.

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B. Delivery Locations

Delivery shall be made to the specified locations listed on Attachment 2 – Delivery Location Listing, except by written authorization from the Procurement Division State Contract Administrator. All deliveries made in a tank wagon must be metered. Deliveries to remote locations may, by mutual agreement with the receiving location and the contractor, be delivered on regularly scheduled “keep full” bases with no additional charges to the State.

See Article 12, Section H, Modification of Contract/Addition of Delivery Location to add/modify a delivery location for this contract.

C. Delivery Equipment:

Contractor will be required to make deliveries at the time specified in vehicles suitable for each individual location. These vehicles shall be equipped as required by applicable laws, rules or regulations with all components; such as connectors and hoses of the proper size, length, etc., necessary to successfully complete delivery. All delivery vehicles and/or trailers must have accurate metering equipment to enable State Personnel to verify quantities delivered.

Note: Attachment 2 – Delivery Location Listing attempts to report the tank fitting applicable to each location. Contractor will be responsible to confirm actual tank fitting/coupling prior to delivery.

D. Standing Time:

The State shall be entitled to standing time for the purposes of unloading, of not more than one (1) hour, at no charge. A charge of \$1.00 per minute shall be assessed for Standing Time in which the carrier's equipment is detained, through no fault of the carrier, in excess of the one (1) no charge hour. Charged time shall be supported with the appropriate documents. For payment to be processed, the Standing Time billing must accompany, on a separate invoice, the fuel billing. Start time shall begin when the carrier is ready to hook-up to the fuel tank. End time shall conclude when carrier disconnects or is finished loading fuel into the tank.

E. Late Delivery Charges:

The parties to this agreement acknowledge that the ordering agency shall incur actual damages should the Contractor fail to deliver the Biodiesel Fuel as specified in the contract delivery requirements. Late Delivery charges must be supported by appropriate documentation (delivery logs, contact names, etc). It is agreed that the Contractor will pay the Ordering Agency twenty-five (25) cents per gallon per order for late delivery of Biodiesel Fuel grades B5, B20 and the Ordering Agency will make an adjustment to be reflected on the invoice. Normal delivery working hours are 8:00 a.m. to 5:00 p.m. Monday through Friday, except State observed holidays.

F. Trip Charge:

During normal delivery hours of 8:00 a.m. to 5:00 p.m. the Contractor's truck, upon arrival, shall be admitted to the delivery site without delay. If the Contractor attempts to deliver fuel to a delivery site and is not admitted to the delivery site for reasons beyond the Contractor's control, caused by the ordering agency, the Contractor shall be paid a trip charge fee. Trip charge time shall be invoiced separately and supported by appropriate documentation (delivery logs, contact names, etc.). A trip charge fee invoice must accompany the fuel invoice for payment of trip charge fee.

The Trip Charge fee shall be \$250.00 per delivery.

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G. Additional Requirements

State departments (such as Department of Transportation) may desire to use certain additives in its Biodiesel blend, including but not limited to NOx additives, antioxidants, and biocides. Contractor agrees that it shall provide all such additives as requested by the ordering agency. Such additives shall be considered a "Biodiesel Add-on-Rate" and the price of such "Biodiesel Add-on-Rate" shall be agreed in writing by the ordering agency and the contractor in advance of any delivery that includes "Biodiesel Add-on-Rate".

H. Modification of Contract/Addition of Delivery Location:

Delivery sites may be added, changed or deleted as deemed necessary by DGS/PD. Additional unlisted locations and/or tank changes may be required after original contract award. Differentials for those unlisted locations and/or tank changes shall be mutually agreed upon by DGS/PD and the Contractor prior to delivery, and shall be consistent with prices for nearby locations.

Process for addition of delivery site(s) is as follows:

1. Ordering agency provides State Contract Administrator with Delivery Addition Location Request Form indicating request for new delivery site(s). Delivery Addition Location Request Form is located at [www.pd.dgs.ca.gov/contracts/91-09.htm](http://www.pd.dgs.ca.gov/contracts/91-09.htm)
2. State Contract Administrator contacts contractor with new delivery site(s) information
3. State Contract Administrator and contractor mutually agree on differential price for new site.
4. State Contract Administrator issues revised Attachment 2 – Delivery Location Listing for contract.

If the contractor delivers to an unlisted delivery location without acknowledgement from the State Contract Administrator it shall be understood that the contractor has accepted that additional delivery location and shall charge the differential as listed in the contract.

Deliveries to unlisted delivery locations shall be reported to the State Contract Administrator so that those location(s) may be officially added to the delivery location list.

**13. EMERGENCY/EXPEDITED ORDERS**

A. Emergency Delivery:

Deliveries requested outside the regular working hours of 8:00 a.m. to 5:00 p.m. and State observed holidays shall be considered an emergency. Orders may be placed by telephone, followed by a Purchasing Authority Purchase Order (Std. 65) sent to the contractor by facsimile or US mail. Emergency delivery invoice must accompany the fuel invoice for payment of the emergency delivery fee.

The Emergency Delivery Charge shall be \$120.00.

B. Expedited Delivery:

Contractor shall make urgent deliveries during regular working hours for minimum delivery requirements within one (1) working day ARO and NO ADDITIONAL PRICE to State or local agencies. Urgent deliveries are not anticipated to occur often and should be kept to a minimum by ordering agency.

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**14. QUALITY ASSURANCE**

The State of California may at any time take a sample of the delivered fuel and conduct an independent test to determine the quality of delivered fuel. If the test analysis shows that the fuel does not comply with State of California specifications, the Contractor shall be responsible for all related costs including but not limited to the test analysis and shipping. The State of California shall have the right to refuse to accept the fuel.

Upon request, the Contractor shall provide a B100 sample of 1000 ml with each shipment. The test sample shall be transported in tamper-proof container complying with Federal, State, and local regulations. This B100 sample shall be from the same batch of B100 used for making of the final blend of Biodiesel. State may test the delivered sample within reasonable time. If the test results of this sample show that the B100 does not comply with the State of California specifications, the Contractor shall be responsible for all the related cost including, but not limited to, the test analysis and shipping. The State of California shall have the right to refuse the fuel delivered.

**15. FREE ON BOARD (F.O.B.) DESTINATION**

All fuel gallons are F.O.B. destination; freight prepaid by the contractor, to the ordering organization's receiving point. Responsibility and liability for loss or damage for all orders will remain with the contractor until final inspection and acceptance, when all responsibility will pass to the ordering organization, except the responsibility for latent defects, fraud, and the warranty obligations.

**16. SHIPPED ORDERS**

All shipments must comply with General Provisions, Paragraph 12 entitled "Packing and Shipment". The General Provisions are available at: <http://www.documents.dgs.ca.gov/pd/modellang/GPIT0407.pdf>.

Each delivery shall have a bill of lading that includes all of the following specific information:

1. Volume of delivered fuel
2. The manufacturing date, refinery source and location, and the storage tank identification numbers for the ultra low sulfur diesel petroleum portion of the blend.
3. The manufacturing date, feedstock source and feedstock location, the manufacturing facility, and the storage tank identification number for the Biodiesel fuel blend stock (B100).
4. The name of the BQ-9000 accredited producer's technician responsible for transmitting the order from the storage and the name of the BQ-9000 certified marketer's technician responsible for the mobile shipping storage tanker.

**17. INVOICING**

Contractor shall render invoices as instructed on each Purchasing Authority Purchase Order (Std. 65). Ordering agencies may require separate invoicing, as specified by each ordering organization. Invoices will contain the following information:

- Contractor's name, address and telephone number
- Leveraged Procurement Number (Contract Number)
- Agency Order Number (Purchase Order Number)
- District
- Description
- Quantity (net metered gallons delivered)
- Contract price and extension

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- REGION BASE MARKET PRICE
- DIFFERENTIAL PRICE
- COMPOSITE PRICE (region base market price + differential) per gallon
- EXTENSION PRICE
- Appropriate Taxes

The State is Federal Excise Tax exempt and shall not pay Federal Excise tax. Each State Department shall be responsible to furnish all applicable exemption certificates upon request from the contractor. Invoices and payments shall be for net-metered gallons delivered. Contractor must charge the agency for net-metered gallons delivered only. Contractor shall provide with the invoice a copy of a receipt of gallons delivered. Additionally, a copy of the "Bill of Lading" from the fuel terminal shall accompany all invoices for "Truck and Trailer" deliveries. The contractor must obtain prior approval from Procurement Division before adding and/or modifying any new charges to the agency invoice.

The following charges shall be listed separately on the agency invoice: State Sales Tax, Local Sales Tax, California Motor Vehicle Fuel Tax, Federal Leaking Underground Storage Tank Tax (LUST), Federal Oil Spill Liability Tax (Superfund), California Oil Spill Prevention Fee.

**18. PAYMENT**

Payment terms for this contract are net forty-five (45) days. Payment will be made in accordance with the provisions of the California Prompt Payment Act, Government Code Section 927, et seq. Unless expressly exempted by statute, the Act requires State departments to pay properly submitted, undisputed invoices not more than forty- five (45) days after the date of acceptance of goods, performance of services, or receipt of an undisputed invoice, whichever is later.

**19. PAYEE DATA RECORD**

Each State accounting office must have a copy of the Payee Data Record (Std. 204) in order to process payments. State departments should forward a copy of the Std. 204 to their accounting office(s). Without the Std. 204, payment may be unnecessarily delayed. Ordering departments should contact the contractor for copies of the Payee Data Record.

**20. CALIFORNIA SELLER'S PERMIT**

The California seller permit number for the contractor(s) is listed below. Ordering departments can verify that permits are currently valid at the following website: [www.boe.ca.gov](http://www.boe.ca.gov). State departments must adhere to the file documentation required identified in the State Contract Manual Volume 2 and Volume 3, as applicable.

| Contractor Name  | Seller Permit # |
|------------------|-----------------|
| Falcon Fuels Inc | SRAA14763144    |

**21. RECYCLED CONTENT**

There is no recycled content for this contract.

**22. ATTACHMENTS**

Attachment 1 – Specifications 9130-0495, (B20), 2 pages; 9130-0496 (B5), 2 pages dated 10/24/2008  
Attachment 2 – Delivery Location Listing (rev 1/9/09)