



## INVITATION TO BID NO: 927-10-00004

### Packaging and Distribution Services Georgia State Road and Tollway Authority

#### Instructions to Bidders:

All spaces below, the attached "Bid Letter and Certification Form" and "Vendor Data Sheet" are to be filled in with signatures supplied where indicated. Failure to sign bid may render your bid invalid.

#### BID OF:

Name of Bidder: \_\_\_\_\_

Address: \_\_\_\_\_  
(Street Address)

City, State and Zip Code: \_\_\_\_\_

#### SUBMIT BID TO:

STATE ROAD AND TOLLWAY AUTHORITY  
Barbara Harris Chappel, Contracting Officer  
47 Trinity Avenue, 4<sup>th</sup> Floor  
Atlanta, Georgia 30334

**Bids Due and Open: May 6, 2010; 2:00 PM, Local Time (Atlanta, GA)**

#### Schedule of Events

Release ITB	April 13, 2010
Deadline for Vendor Written Questions (Submit questions by email to <a href="mailto:procurement@georgiatolls.com">procurement@georgiatolls.com</a> )	April 19, 2010 by 4PM, Local Time
SRTA Responses to Written Questions	April 22, 2010
Bid Submission Dead Line	May 6, 2010, 2PM, Local Time
Notice of Contract Award	May 13, 2010

All questions shall be submitted by email to [procurement@georgiatolls.com](mailto:procurement@georgiatolls.com). Questions must be submitted no later than the deadline specified in the above Schedule of Events. Answers to written questions received will be available at the State Road and Tollway Authority (SRTA) website at <http://www.georgiatolls.com/procurement.aspx>

Answers are provided for informational purposes only and will not be considered binding unless incorporated by amendment to this ITB. All questions and answers will be posted to the SRTA's website where the ITB document is located. **Bidders are reminded and encouraged to check this website daily for any changes to the ITB as well as to check this website for Notice of Contract Award. Posting of Notice of Award shall constitute official public notification.**

State of Georgia  
State Road and Tollway Authority  
**BID LETTER**

We propose to furnish and deliver any and all of the deliverables and services named in the attached Invitation to Bid (ITB) for which prices have been set. The price or prices offered herein shall apply for the periods of time stated in the ITB.

We further agree to strictly abide by all the terms and conditions contained in the ITB as well as the Procurement and Protest Policies of the State Road and Tollway Authority that may be found at <http://www.georgiatolls.com>. Any exceptions to the requirements of the ITB, the terms and conditions of the proposed agreement shall be noted in writing, with detailed explanation, and included with this Bid. The Bidder acknowledges that taking exception may subject this Bid to rejection.

It is understood and agreed that this Bid constitutes an offer, which when accepted in writing by the State Road and Tollway Authority, and subject to the terms and conditions of such acceptance, will constitute a valid and binding contract between the undersigned and the State Road and Tollway Authority.

It is understood and agreed that we have read SRTA's specifications shown or referenced in the ITB and that this Bid is made in accordance with the provisions of such specifications. By our written signature on this Bid, we guarantee and certify that all items included in this Bid meet or exceed any and all such SRTA specifications. We further agree, if awarded a contract, to deliver goods and services that meet or exceed the specifications.

The prices offered herein shall be valid for a period of sixty (60) days from Bid Due Date.

**BID SIGNATURE AND CERTIFICATIONS**  
(Bidder - Sign and return with Bid)

1. I certify that, if awarded a contract, the Bidder will deliver goods and services which will meet or exceed the specifications set forth in this ITB, the Bid and the terms of the final contract between the Bidder and SRTA.

2. I certify on behalf of the Bidder that this Bid is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting a bid for the same materials, supplies, equipment, or services and is in all respects fair and without collusion or fraud. I understand that collusive bidding is a violation of state and federal law and can result in fines, prison sentences, and civil damage awards. I agree to abide by all conditions of the Bid and certify that I am authorized to sign this Bid for the Bidder.

3. I certify that the Bidder has not violated and will not violate the provisions of the Official Code of Georgia Annotated, Section 45-10-20 *et. seq.*

4. I certify that this Bid is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting a Bid for the same materials, supplies, services, or equipment and is in all respects fair and without collusion or fraud. I understand collusive bidding is a violation of state and federal law and can result in fines, prison sentences, and civil damage awards. I agree to abide by all conditions of this ITB and certify that I am authorized to sign this Bid for the Bidder.

Authorized Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Print/Type Name: \_\_\_\_\_

Print/Type Company Name: \_\_\_\_\_

**VENDOR DATA SHEET**

Full Legal Name of Bidder: \_\_\_\_\_

Address: \_\_\_\_\_

FEIN (Federal Employer ID Number) or SSN (Social Security Number): \_\_\_\_\_

**Bidder must furnish one of the above numbers before any award will be made.**

Orders to be submitted to:

Firm: \_\_\_\_\_

Email Address: \_\_\_\_\_

Fax Number: \_\_\_\_\_

Payments to be mailed to:

Firm: \_\_\_\_\_

Address: \_\_\_\_\_

Vendor Point of Contact:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Phone: \_\_\_\_\_ Toll Free Phone: \_\_\_\_\_

Fax Number: \_\_\_\_\_ E-mail address: \_\_\_\_\_

**STATE ROAD AND TOLLWAY AUTHORITY  
INVITATION TO BID  
ADDITIONAL INSTRUCTIONS**

**1. PURPOSE OF PROCUREMENT**

The State Road and Tollway Authority (SRTA) is issuing this Invitation to Bid (ITB) to establish an Open Contract for the packaging and distribution of approximately 67,000 Cruise Card Transponders over a four week period beginning in mid-May 2010 for the convenience of SRTA. Detailed requirements are contained in Appendix B. All Bids submitted pursuant to this ITB shall be made in accordance with the provisions of this ITB, including these instructions, the attached specifications and any appendices.

**2. PROJECT BACKGROUND**

The State Road and Tollway Authority is the transportation infrastructure financing arm of the State of Georgia and is committed to efficiently financing, managing and delivering land transportation choices for the State of Georgia. SRTA also operates the Georgia 400 Extension as a toll road in Atlanta, Georgia. The Georgia 400 extension, completed in 1993, handles approximately 113,000 vehicles per day.

Today 161,000 Georgia commuters enjoy the benefits of the Cruise Card on the GA 400 Extension. Approximately 41 percent of all vehicles traveling along the GA 400 extension currently use the radio frequency identification (RFID) electronic toll collection technology, which SRTA markets as the "Cruise Card." The Cruise Card transponder is an electronic toll collection device that is part of a prepaid toll system that allows the users to pass through a toll plaza without stopping to pay the toll.

Electronic toll collection continues to be SRTA's most effective solution for easing traffic congestion at toll booths, streamlining toll collection, and improving customer service. The Cruise Card program is responsible for about 41 percent of toll revenue collected.

SRTA's business development strategy is based on a plan to replace all battery operated and solar Cruise Cards currently in use with new paper thin sticker Cruise Cards.

**3. RESTRICTIONS ON COMMUNICATIONS WITH STATE STAFF**

From the issue date of this ITB until a successful Bidder is selected and the selection is announced, prospective Bidders are not allowed to communicate, for any reason, with any SRTA, or other State of Georgia staff regarding this particular procurement, except through the Contracting Officer named herein. For violation of this provision, SRTA reserves the right to reject the Bid of the offending Bidder.

**4. SUBMISSION OF BIDS**

Preparation of Bids should be made in such a way as to provide a straight forward, concise delineation of capabilities and compliance with requirements of this ITB. Expensive binders, colored displays, promotional materials, etc. are not necessary or desired. Emphasis should be concentrated on completeness and clarity of content.

Submit all bids to:

**State Road and Tollway Authority  
Attn: Barbara Harris Chappel - ITB No. 927-10-00004  
47 Trinity Ave. 4<sup>th</sup> Floor  
Atlanta, Georgia 30334**

The responsibility for submitting a bid to SRTA on or before the stated time and date will be solely and strictly the responsibility of the Bidder. SRTA will in no way be responsible for delays caused by the United States mail delivery, common carrier or any other cause or occurrence.

Verbal, faxed, or unsealed bids will not be accepted.

## **5. RESPONSIVENESS OF BIDS**

Bids must be complete in all respects, as required in this ITB. A bid MAY be rejected by SRTA if it is conditional; incomplete; fails to meet any requirement included in the ITB; or, contains any alterations of form or other irregularities of any kind.

## **6. MULTIPLE BIDS**

Bidders may be rejected if more than one bid is received from an individual, firm, partnership, corporation, or combination thereof, under the same or different names. Such duplicate interests may cause the rejection of all Bids in which such Bidder has participated.

## **7. WAIVERS**

SRTA may waive informalities or irregularities including, but not limited to typographical, mathematical, obvious errors, or other informalities or irregularities.

## **8. MODIFICATION OR WITHDRAWAL OF BIDS**

**Modifications** - SRTA will permit modifications to a bid after it has been submitted up until the bid submission deadline for accepting bids. The bid can be picked up by a representative of the Bidder and then it is the Bidder's responsibility to resubmit before the deadline.

**Withdrawal** - A bid may be withdrawn upon request by the Bidder without prejudice up until the bid submission deadline for submittal of bids, provided that the request is in writing, has been executed by the Bidder or the Bidder's duly authorized representative and has been filed with SRTA.

## **9. BID FORMAT**

**One original hard copy plus one hard copy and one electronic copy of all bid documents** technical literature, and any supporting documentation shall be submitted prior to bid opening. If there are any conflicts or discrepancies between the submitted documents, the contents of the original hard copy shall govern. Bids must be identified as follows:

Bid of (Your Company Name's)  
ITB Number: 927-10-00004  
Bid Opening Date and Time: **May 6, 2010, 2:00PM, Local Time (Atlanta, Georgia)**

## **10. BID DOCUMENTS REQUIRED**

For this procurement, **Bidders must sign and return: Page 2 - Bid Letter and Certification document, Statement of Responsibility Certification Form (Appendix A), a fully completed Technical Compliance Worksheet (Appendix B), Bid Price Sheet (Appendix C), and any Bidder Submitted Documentation.**

## **11. BID PRICE SHEET**

**Bidders must submit annual prices (annual based on State of Georgia Fiscal Year July 1 – June 30) for the products and services listed on the Bid Price Sheet Appendix C.**

Bids containing provisions for late or interest charges cannot be awarded a contract. Bidders are instructed to remove or strike through any reference to this provision in or on vendor printed forms and to initial changes prior to submitting a Bid response to SRTA. Failure to do so could delay bid award or result in bid disqualification if not removed.

**12. CONTRACT TERM**

The term of the contract resulting from this ITB is expected to begin May 2010 through June 30, 2010.

**13. CONTRACT**

A draft contract which SRTA intends to use with the successful Bidder is attached to this ITB and identified as Appendix D. Prospective Bidders are urged to carefully read this Contract prior to making their offers. SRTA reserves the right to add provisions consistent with the successful Bidder's offer and to negotiate with the successful Bidder other additions to, deletions from, and/or changes in the language in the Contract, provided that no such addition, deletion or change in contract language would, in the sole discretion of SRTA affect the evaluation criteria set forth herein, or increase the prices offered by the successful Bidder. The Insurance and indemnification requirements set forth in the draft Contract should be considered by Bidder when setting their prices, as such Insurance and indemnification provisions are not likely to change from the draft version provided.

**14. CONTRACT EXCEPTIONS**

By submitting a proposal, each Bidder acknowledges its acceptance of the ITB specifications and the contract terms and conditions without change except as otherwise expressly stated in the submitted proposal. If a Bidder takes exception to a contract provision, the Bidder must state the reason for the exception and state the specific contract language it proposes to include in place of the provision. Any exceptions to the contract must be included in Bidder's Proposal. Exceptions must be in an original document clearly marked and may not be submitted in the form of hand written changes to the original contract. Proposed exceptions must not conflict with or attempt to preempt requirements specified in the ITB.

At the end of the evaluation process, the SRTA shall contact the apparent successful Bidder. Prior to the contract award, the apparent successful Bidder will be required to enter into negotiations/discussions with the SRTA to resolve any contractual differences before an award is made. These negotiations/discussions are to be finalized and all exceptions resolved within one (1) week after SRTA notifies Bidder that it is the apparent successful Bidder. Failure to resolve any contractual issues may lead to rejection of the Bidder. SRTA reserves the right to proceed to discussions with the next highest ranked Bidder.

SRTA reserves the right to modify the contract to be consistent with the successful offer, and to negotiate other modifications with the apparent successful Bidder. Exceptions that materially change the terms or the requirements of the ITB may be deemed non-responsive by the SRTA, in its sole discretion, and rejected. Contract exceptions which grant the Bidder(s) an impermissible competitive advantage, as determined by the SRTA in its sole discretion, will be rejected.

**15. BASIS FOR AWARD**

The contract will be awarded to the Responsive and Responsible Bidder who is in compliance with all specifications and offers the lowest cost.

## **16. BIDDER RESPONSIBILITY**

A Responsible bidder is one that SRTA believes to be responsible based on responses provided on the Bidder's "Statement of Responsibility Certification Form" and/or based on Bidder's responses to the requirements of the solicitation document. Responsibility shall generally be presumed. In order for a Bidder to be deemed non-responsible, SRTA must make an affirmative determination of non-responsibility. SRTA reserves the right to conduct additional due diligence into any Bidder's responsibility status. Such due diligence may include investigations into one or more of the following areas:

1. Whether bidder has adequate financial resources to perform the contract, or the ability to obtain them. This includes, but is not limited to, the ability to obtain required bonds (if any) and insurance from sureties and insurance companies authorized to do business in Georgia.
2. Whether bidder is able to comply with the contract requirements, considering the firm's other business obligations.
3. Whether bidder is registered to do business in the State of Georgia and is listed as "ACTIVE/COMPLIANCE" with the Office of the Georgia Secretary of State.
4. Whether bidder is not presently debarred or suspended from bidding by any Federal or State governmental entity;
5. Whether bidder has within a three year period preceding this bid (or proposal) been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
6. Whether bidder is presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated above.
7. Whether bidder has had a contract terminated for default in the last 3 years.
8. Whether bidder is currently under investigation for any possible breach of contract, or fraud or allegations of criminal activity related to the types of Services requested within this solicitation document. (And if yes, the circumstances, nature and magnitude of such investigation shall be considered in any possible non-responsibility determination).
9. Whether bidder has a satisfactory performance record.
10. Whether bidder has a satisfactory record of integrity and business ethics.
11. Whether bidder has satisfactory organization, experience, accounting and operational controls, and managerial and technical skills.

**BIDDERS MUST COMPLETE AND SUBMIT APPENDIX A.**

## **17. BID SUBSTITUTIONS, ALTERNATES, EXCEPTIONS, AND EXTENSIONS**

Bidders that intend to propose alternate materials, services, techniques or equipment or substituted items that materially deviate from the items and/or services required in the Technical Requirements and specifications of this ITB, are strongly encouraged to request approval for such items, products and/or services from SRTA by the deadline for Questions set forth on the Cover Page of this ITB,

If such a request is deemed by SRTA to have merit as an acceptable deviation, and is granted by SRTA, an addendum may be issued to all prospective Bidders to inform them of such an allowance, and/or to amend the requirements or specifications of this ITB.

SRTA reserves the right to extend the bid submission deadline based on such information, but is not required to do so. SRTA reserves the right to cancel the solicitation in its entirety and possibly re-advertise and issue a revised ITB for any reason.

Any exceptions that the Bidder has in their submitted Bids must also be clearly noted within the Bid to be considered by SRTA, regardless of whether or not such exceptions have been previously communicated to SRTA.

**PLEASE NOTE THAT BIDDERS SUBMITTING EXCEPTIONS TO THE REQUIREMENTS AND SPECIFICATIONS OF THIS ITB IN THEIR SUBMITTED BID DO SO AT THEIR OWN PERIL, SINCE EXCEPTIONS MAY RESULT IN A DETERMINATION OF “NON-RESPONSIVENESS” OF THE BIDDER AND/OR THEIR BID.**

## **18. REJECTION OF BIDS**

SRTA reserves the right to reject any or all Bids submitted in response to this ITB.

## **19. SMALL AND MINORITY BUSINESS POLICY AND TAX INCENTIVE**

It is the policy of the State of Georgia that small businesses, female-owned businesses and minority businesses have a fair and equal opportunity to participate in the State purchasing process. SRTA encourages all small businesses, female-owned businesses and minority-owned businesses to compete for, win, and receive contracts for goods, services, and construction. Potential respondents to this ITB are advised that O.C.G.A. § 48-7-38 provides for an income tax adjustment on the Georgia state income tax return of any company that subcontracts with a “Certified minority-owned” firm to furnish goods, property, or services to the State of Georgia. Any selection made as a result of this ITB will be made without regard to race, color, religion, sex, or national origin. This desire on the part of SRTA is not intended to restrict or limit competitive bidding or to increase the cost of the work. Any selection made as a result of this ITB will be made without regard to race, color, sex, religion, or national origin.

## **20. RESPONSIBILITY FOR COSTS INCURRED.**

All costs incurred by any interested party in responding to this ITB shall be borne by such interested parties, and SRTA shall have no responsibility whatsoever for any associated direct or indirect costs related to the development or any other aspect of the bids or this ITB.

APPENDIX A

**STATEMENT OF RESPONSIBILITY  
CERTIFICATION FORM**

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**INSTRUCTIONS:**

**THIS FORM MUST BE COMPLETED, SIGNED, NOTARIZED AND SUBMITTED WITH YOUR BID/PROPOSAL.**

Please complete this form, answering every question. A “Yes” answer to any of the subparts of *QUESTION NO. 3* requires a written explanation attached to the completed form, submitted on your company letterhead and signed by an authorized representative of the company. A “Yes” answer to any of the subparts of *Question No. 3* will not necessarily result in denial of award, but will be considered in determining Offeror responsibility in the event *SRTA* undertakes an investigation into Offeror’s responsibility status. For any explanation, indicate to whom it applies; identify the initiating agency and the dates of action.

Offerors are responsible for updating any information submitted in their Statement of Responsibility Certification Form if a change occurs prior to the award of the contract.

**QUESTIONS:**

1. Does Offeror certify that it has, or has the ability to obtain, adequate financial resources to perform the Services and Deliverables identified in the Agreement? This includes, but is not limited to, the ability to obtain required bonds and insurance from sureties and insurance companies authorized to do business in Georgia.

\_\_\_\_\_ YES \_\_\_\_\_ NO

2. Does Offeror certify that it is able to comply with all contractual requirements and fulfill all of its contractual obligations, considering Offeror’s other business obligations?

\_\_\_\_\_ YES \_\_\_\_\_ NO

3. Within the past three (3) years, has Offeror’s company, or any principal of Offeror (e.g., any owner, partner, officer, or major stockholder with 10% or more shares) been the subject of any of the following:

- (a) a judgment or conviction for any conduct constituting a felony under local, state or federal law, including, but not limited to, fraud, extortion, bribery, racketeering, labor, anti-trust, price-fixing, or bid collusion?

\_\_\_\_\_ YES \_\_\_\_\_ NO

- (b) a criminal investigation or indictment for any conduct constituting a felony under local, state or federal law, including, but not limited to, fraud, extortion, bribery, racketeering, price-fixing, or bid collusion (to the best of Offeror’s knowledge\*)?

\_\_\_\_\_ YES \_\_\_\_\_ NO

- (c) an unsatisfied judgment, injunction or lien obtained by a Georgia state government agency including, but not limited to, judgments based on taxes owed and fines and penalties assessed by any Georgia state government agency?

\_\_\_\_\_ YES \_\_\_\_\_ NO

- (d) an investigation for a civil violation by any local, state or federal agency (to the best of Offeror’s knowledge\*)?

\_\_\_\_\_ YES \_\_\_\_\_ NO

- (e) a suspension, debarment or termination for cause from any local, state or federal government procurement process?  
 YES  NO
- (f) a suspension or termination for cause prior to the completion of the term of any local, state or federal government contract?  
 YES  NO
- (g) a denial of award for non-responsibility determination made by any local, state or federal government?  
 YES  NO
- (h) an agreement to a voluntary exclusion from bidding/contracting on any local, state or federal procurement?  
 YES  NO
- (i) an administrative proceeding or civil action seeking specific performance or restitution in connection with any local, state or federal procurement (to the best of Offeror's knowledge\*)?  
 YES  NO
- (j) any bankruptcy proceeding?  
 YES  NO

**CERTIFICATION:**

The undersigned: (i) recognizes that this questionnaire is submitted for the express purpose of assisting the State Road and Tollway Authority (SRTA) to make a determination regarding the eligibility for award of a contract, or to approve a subcontract; (ii) acknowledges that the SRTA, the State of Georgia, its agencies and political subdivisions may, in their sole discretion, by means which they may choose, verify the truth and accuracy of all statements made herein; (iii) acknowledges that submissions of false or misleading information may constitute fraud, may result in ineligibility for contract award, may be used as grounds for termination for default of any contract awarded in relation to this certification, may be considered by the SRTA, the State of Georgia, its agencies and political subdivisions in making responsibility determinations in other procurements, and may subject the Offeror or its representatives to criminal liability; (iv) as the authorized representative of the Offeror, states that the information submitted on this certification form and any attached pages is true, accurate and complete.

The undersigned hereby attests that he/she is duly authorized by the Offeror to make the statements and representations contained herein and/or attached hereto, on behalf of such Offeror.

\_\_\_\_\_  
 Legal Name of Offeror Company

\_\_\_\_\_  
 Signature of Offeror's Authorized Representative

\_\_\_\_\_  
 Address

\_\_\_\_\_  
 Printed Name of Offeror's Authorized Representative

\_\_\_\_\_  
 City, State, Zip

\_\_\_\_\_  
 Title

State of \_\_\_\_\_ County of \_\_\_\_\_

Sworn to and subscribed before me on this \_\_\_\_\_ day of \_\_\_\_\_ 200\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

**Note:** \*As used herein, the term “to the best of Offeror’s knowledge” shall refer to the current actual knowledge of Offeror and shall be construed, by imputation or otherwise, to refer to the knowledge of any agent, manager, representative or employee of Offeror but does not impose upon Offeror any duty of inquiry or investigation of the matter to which such actual knowledge, or the absence thereof, pertains. The fact that Offerors (or their principals) are under investigation will not necessarily result in a determination of non-responsibility; rather, SRTA will determine if the information and circumstances regarding such investigation are of such a nature or magnitude as to cause the SRTA to deem the bidder non-responsible in order to protect the interests of the SRTA and/or the State.

**APPENDIX B  
TECHNICAL SPECIFICATION & COMPLIANCE FORM**

<b>Bidder's Company Name:</b>	
<b>Bidder's Instructions:</b>	

**TECHNICAL COMPLIANCE FORM INSTRUCTIONS**

All supplies and services shall comply with the requirements set out in this appendix. Bidder shall indicate that they have Read, Understood and Comply with each and every technical requirement, specification or statement below by indicating "Yes" or "Y" in the column next to each requirement. If the Bidder's response is "NO" or "N/A" a brief explanation must be placed in the Comments column or attached separately. Unless, additional information is requested in the Requirements column, Bidders are strongly discouraged from providing additional comments on their "YES" answers, as such may be interpreted as a qualification of the YES response, which may result in Bidder's answer being deemed a "NO" or non-responsive, and could result in disqualifying Bidder from Award. Answers of NO will be subject to bid disqualification.

<b>Factor</b>	<b>Requirements</b>	<b>Yes / No</b>	<b>Response</b>
General	<p>SRTA will provide a form cover letter, the return address for undeliverable mail, an Excel file and the new Cruise Cards to Contractor. The Excel file contains the names and addresses of all of the customers that are to receive the Cruise Cards, along with identification numbers of the old and new Cruise Cards associated with each customer. Contractor will perform a mail merge so that each letter will contain information that is tailored to each intended recipient. Contractor shall insert each Cruise Card into a Contractor-provided anti-static bag, and insert the same into each Contractor-provided bubble mailer along with a completed Cover Letter. Contractor may print either directly on each Contractor- provided bubble mailer or Contractor- provided label. If Contractor chooses to use labels, Contractor will apply same to Contractor-provided bubble mailer.</p> <p>Contractor will match the Cruise Card identification number on each new Cruise Card with the identification number included in the letter before inserting the Cruise Card, packaged in anti-static bag, and cover letter into bubble mailer; and seal.</p> <p>Contractor will ship the package via USPS, Federal Express or UPS at Contractors expense. If USPS, the minimum class of service shall be First Class.</p> <p>Contractor will invoice SRTA weekly at the contracted price for each package shipped in the previous week.</p>		
Experience	Prior experience in packing and bulk distribution.		

**APPENDIX B  
TECHNICAL SPECIFICATION & COMPLIANCE FORM**

<b>Bidder's Company Name:</b>	
<b>Bidder's Instructions:</b>	

<b>Factor</b>	<b>Requirements</b>	<b>Yes / No</b>	<b>Response</b>
	Experience shall be shown in the response column to the right.		
Experience	Prior experience in packing of multiple items in one package.  Experience shall be shown in the response column to the right.		
Experience	Minimum of five years experience in packaging and distribution.  Experience shall be shown in the response column to the right.		
Experience	Prior experience in project management or quality controls which will be applied to this contract.  Experience shall be shown in the response column to the right.		
Facilities	Contractor must have facilities to receive and store inventory.  The location of the facility shall be indicated in the response column to the right.		
Facilities	Facilities must insure SRTA's transponders in the amount of \$750,000 or greater with an insurer that meets the contractual requirements.		
Stability	Not currently under the jurisdiction of the bankruptcy courts of the United States		
Mailers	Bubble mailers 5 1/8" x 8 1/8" sealable		
Anti -static Bags	Flat Poly 3" x 4", 3.2 mil, transparent metallic, static shielding bag, one per mailer		
Addressing	1" x 2 5/8" white laser labels		
Addressing	In lieu of labels, printing may be directly on the mailer  Indicated the method of addressing the bubble mailers: Label or direct printing		
Addressing	Excel file provided by SRTA:		

**APPENDIX B  
TECHNICAL SPECIFICATION & COMPLIANCE FORM**

<b>Bidder's Company Name:</b>	
<b>Bidder's Instructions:</b>	

<b>Factor</b>	<b>Requirements</b>	<b>Yes / No</b>	<b>Response</b>
	First Name Last Name Company Name Address Line 1 Address Line 2 City, State, Zip Code		
Return Address	Return Address printed by Contractor: State Road and Tollway Authority P.O. Box 2105 Atlanta, GA. 30301-2105		
Addressing	Laser or other non-water soluble ink		
Insert	One Cruise Card per mailer Cruise Card description: 3.1 x 2.6 x 0.05 and 0.07 oz (2 g)		
Insert	Letter, 8 1/2" x 11", minimum 20 lb, 90 brightness or greater, one page, one per mailer		
Insert	Contractor to provide personalized letter with Cruise Card number using Microsoft mail merge importing SRTA provided information from an Excel file.		
Delivery	USPS, UPS or Federal Express  State the delivery method in the Response column		
Delivery	The minimum delivery class shall be USPS first class.		
Delivery	Delivery rates are increasing in May/June and the bidder should take into consideration the prevailing rates at the time of contract performance when quoting prices for this bid.  Indicate in the Response column that price increases of delivery services have been factored into the price quoted.		
Prices	Prices shall be firm for the duration of the contract.  Indicated in the Response Column that prices are firm for the duration of the contract.		

**APPENDIX C**  
**BID PRICE SHEET**

<b>Offeror's Company Name:</b>	
<b>Offeror's Instructions:</b>	

Item Description	Unit	Unit Price*
Providing, printing, inserting, sealing, labeling & distributing one packaged transponder as specified in Appendix B	1 each	

\*The exact quantity has not been determined so pricing shall be quoted on a unit price basis.

Price shall be firm for the duration of the contract.

**EXHIBIT D**  
**CONTRACT**

**PACKAGING AND DISTRIBUTION CONTRACT**  
**BETWEEN**  
**THE STATE ROAD AND TOLLWAY AUTHORITY**  
**AND**

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## Packaging and Distribution Contract

This contract ("Contract") is made and entered into as of May \_\_, 2010 ("Effective Date"), by and between the STATE ROAD AND TOLLWAY AUTHORITY, a body corporate and politic and an instrumentality and public corporation of the State of Georgia ("SRTA"), and \_\_\_\_\_, a \_\_\_\_\_ ("Contractor"). SRTA and Contractor may be referred to collectively as "Parties" and individually as "Party."

**WHEREAS**, SRTA desires to engage and utilize the services of company experienced in packaging and distributing a large volume of packages, in accordance with the needs, requirements, terms and conditions, as more fully described in the Packaging and Distribution Services ITB No. 927-10-00004 and any addenda thereto and any documents referenced therein (collectively, the "ITB");

**WHEREAS**, the Contractor has represented to SRTA that it is experienced and qualified and willing to provide all of the services and expertise needed to successfully provide the packaging and distribution services as that work is more fully described in the ITB;

**WHEREAS**, SRTA has relied upon such representations and selected the Contractor to furnish the Services;

**WHEREAS**, pursuant to OCGA §32-10-63(5), SRTA is authorized to contract for the Services.

**NOW, THEREFORE**, in consideration of the mutual promises and covenants contained herein, the adequacy and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, agree as follows:

1. **Recitals.** The recitals set forth above are true and correct and are incorporated into this Contract.
2. **Definitions.** Any capitalized terms not specifically defined in this Contract will have the same meanings assigned in the ITB to that term.
3. **Inclusion and Priority of Documents.** The ITB, which is incorporated herein by reference as **Exhibit A**, and the Contractor's Bid (and any documents referenced therein) submitted in response thereto, which is incorporated herein by reference as **Exhibit B** (collectively, the "Contractor's Bid"), are integral parts of this Contract. The ITB, the Contractor's Bid, and this Contract (including all amendments, documents and exhibits referenced in this Contract) shall be collectively referred to as the "Contract Documents." In the event of a conflict among the Contract Documents, the Contract Documents herein shall govern the contractual relationship between the Contractor and SRTA, and shall control one over another in the following order: Any formally executed amendments to the Contract, the Contract, the ITB, and the Contractor's Bid.
4. **Contract Term and Renewal.** This Contract shall begin on the Effective Date and shall continue until June 30, 2010 11:59 pm (the "Term"), unless extended pursuant to **Section 12C (Delay and Extensions of Time)**.
5. **Time and Manner of Performance.**
  - A. **Services in General/Project Schedule.** Contractor agrees to provide and deliver all of the work, supplies and services set forth in the ITB (collectively, "Services"). All of the Services and each component thereof shall conform to each and every standard, specification, provision, deadline,

timeline, law, criteria and requirement as applicable and as set forth in the ITB and, in particular but without limitation, with each and every standard, specification, provision, deadline, timeline, criteria and requirement of **Appendix B (Technical Specification & Compliance Form)** of the ITB. Except as explicitly set forth below in **Section 5B**, Contractor will supply all materials needed to perform the Services at no additional cost. Contractor shall perform the Services in a workmanlike and professional manner, consistent with the highest level of care and skill exercised by other providers of similar services in the industry. All Services shall be performed by the Contractor within the times needed in order to ensure that all packages are delivered to the shipping company/carrier no later than by the close of business on June 30, 2010. Unless an extension of time is granted by SRTA pursuant to **Section 12C (Delay and Extensions of Time)** of this Contract, Contractor will successfully, fully and entirely complete all Services by all applicable deadlines.

- B. Delivery of SRTA-provided Materials. Within seven (7) days after SRTA posts on its website the Notice to Award for this Contract, SRTA shall deliver to Contractor the Excel file, the form cover letter (“Cover Letter”), and the Cruise Cards (all as more specifically described in **Appendix B (Technical Specification & Compliance Form) of the ITB**). Immediately upon receipt of these materials, Contractor shall commence the Services. Contractor understands and acknowledges that the Cruise Cards delivered to Contractor may not be in sequential order. Contractor shall therefore ensure that the identification number of each Cruise Card matches the number reflected on each Cover Letter prior to shipping each package.
- C. Cooperation. Contractor shall fully and promptly cooperate with SRTA in all aspects of the Services.
- D. SRTA’s Customer Service Center Manager. SRTA’s Customer Service Center Manager will determine in the first instance all questions of any nature whatsoever arising out of, under, or in connection with, or in any way related to or on account of, this Contract. Decisions made by SRTA’s Customer Service Center Manager shall be binding.

6. **Contractor Personnel.**

- A. General. The Contractor shall provide sufficient personnel and staffing to provide the Services. Contractor warrants and represents that all persons assigned to perform under this Contract shall be employees of Contractor and shall be fully qualified to perform the Services. Contractor’s failure to continuously provide adequate staffing may result in the termination of this Contract.
- B. SRTA’s Right to Remove. SRTA shall have the absolute right to require the Contractor to remove an employee from performing under this Contract for any or no reason. In the event of such removal, Contractor will replace the employee with the appropriate personnel within the time specified by SRTA.
- C. Contractor Project Manager. Contractor shall assign a Project Manager who shall interface with SRTA during the performance of this Contract.

7. **Data Ownership/Security.** All data, records, Cruise Cards or other information in any way relating to SRTA and its customers and all work produced by Contractor under the Contract Documents shall remain the property of SRTA at all times during the Term of the Contract and after Contract termination for whatever reason. In addition to Contractor’s obligations in **Section 14 (Confidentiality)**, Contractor shall ensure that no unauthorized personnel will have access to the data, records, Cruise Cards or any personal information of existing or potential SRTA customers.

8. **Subcontracting and Assignment.** Contractor shall not assign, delegate, sublet or transfer this Contract or any rights under or interest in this Contract without the prior written consent of SRTA, which may be withheld for any reason. Contractor shall not subcontract Services to subcontractors without the prior written consent of SRTA, which may be withheld for any reason. Any assignments or subcontracts made in violation of this **Section 8** shall be null and void.
9. **Relationship of the Parties.** Each Party, in the performance of this Contract, shall be acting in its individual capacity and not as an agent, employee, partner, joint venturer, or associate of the other Party. The employees, agents, partners or contractors of one Party shall not be deemed or construed to be the employees, agents, partners or contractors of the other Party for any purpose. Neither Party shall assume any liability of any type on behalf of the other Party or any of such other Party's employees, agents, or partners. The Parties expressly understand and agree that Contractor is an independent contractor of SRTA in all manner and respect and that neither Party to this Contract is authorized to bind the other Party to any liability or obligation or to represent in any way that it has such authority. Contractor shall be solely responsible for all payments to its agents, consultants, suppliers, employees, partners or any other parties with which it does business including, but not limited to, paying all benefits, taxes and insurance, including workmen's compensation insurance, for its employees.
10. **Safety Precautions.** The Contractor shall be solely and completely responsible for the safety of all persons and property in any way related to the Services and comply with the ordinances, rules and regulations of any applicable Governmental Authority.
11. **Payment Terms.**
  - A. **General.** For satisfactory performance of the Services, SRTA hereby agrees to compensate the Contractor in accordance with the unit prices set forth in **Exhibit C (Pricing)** attached hereto and incorporated herein for each unit of Services properly and fully performed.
  - B. **Trust Funds.** All payments made by SRTA to Contractor for the Services under the Contract Documents shall be held in trust by the Contractor for the purpose of paying its employees, agents, independent contractors, subcontractors, suppliers, assigns, and any other parties who provided any part of the Services.
  - C. **Overpayment.** In the event an overpayment is made to Contractor under this Contract, Contractor shall immediately refund to SRTA the full amount of any such erroneous payment or overpayment following Contractor's written notice of such erroneous payment or overpayment. If Contractor fails to refund the erroneous payment or overpayment within a 30-day period, SRTA shall be entitled to interest at one percent per month on the amount not repaid from the date of overpayment.
  - D. **Reduction of Payment for Unsatisfactory Services:** If any Service or part thereof required by the Contract is not performed by the Contractor, the value of such Service or part thereof will be determined by SRTA and deducted from any invoice claiming such items for payment. If the Service or part thereof has been completed and is determined to be unsatisfactory by SRTA, the Contractor will be notified and given the opportunity to correct any deficiencies within a time certain. Payment for unsatisfactory Services will be withheld by SRTA from any invoice until such time as the Services are determined by SRTA to be acceptable.
  - E. **Withholding Payments.** SRTA reserves the right to withhold payment or payments in whole or in part, and to continue to withhold any such payments for Services not completed, completed

unsatisfactorily, or Services that are otherwise performed in an inadequate or untimely fashion as determined by SRTA. Any and all such payment previously withheld shall be released and paid to Contractor when the Services are subsequently satisfactorily performed.

- F. Payment not Acceptance. Payment or use of any Services or portions thereof by SRTA shall not constitute an acceptance of any Services not performed in accordance with the Contract Documents.
- G. Net 14 Days. SRTA agrees to pay Contractor in accordance with its normal processes and procedures for all undisputed amounts within fourteen (14) days of receipt of a valid invoice, provided Contractor fully and properly performed the particular component of Services.
- H. Invoicing. The Contractor shall deliver to SRTA an invoice on a weekly basis. Each invoice shall only include a request for payment for the number of packages that were properly prepared and mailed with the appropriate postage the previous week. The Contractor will submit an itemized billing, identifying the date and the number of packages so delivered the previous week. Along with each invoice, the Contractor will provide any necessary backup documentation and certifications as required in the Contract Documents or otherwise reasonably requested by SRTA.
- I. No Late Fees. In no event shall the Contractor be entitled to charge SRTA late fees, collection fees, attorney's fees, interest, or other fees incurred by the Contractor as a result of non-payment or a delay in payment by SRTA.
- J. Right of Set Off. SRTA may retain or set off any amount owed to it by Contractor.
- K. Full Compensation. All Services performed by the Contractor in meeting the requirements of the Contract Documents shall be paid as set forth above, which shall constitute full compensation for the Services, including but not limited to: (a) the cost of all insurance, home office, job site and other overhead, and profit relating to Contractor's performance of its obligations under this Contract; (b) the cost of performance of each and every portion of the Services; (c) the cost of postage, supplies, and materials needed to perform the Services; (d) all risk of inflation, increases in the cost of postage or other method of shipping, currency risk, interest and other costs of funds associated with the progress payment schedule for the Services as provided herein; and (e) payment of any taxes, duties, permits and other fees imposed with respect to the Services and any other materials, supplies, documentation, labor or services included therein.
- L. Firm Price Period. The prices set forth in **Exhibit C (Pricing)** shall be firm for the Term.
- M. Expenses. SRTA shall not be obligated to pay any out of pocket expenses or other costs, except the rates for Services as set forth in Exhibit C, unless SRTA agreed in advance in advance and in writing to pay for such expenses.

## 12. Contract Changes.

- A. Allowable Changes. Contract changes will only be allowed to address (i) variances in the scope of Services for which there is no appropriate pay item or category (the Parties understanding that such additional work may be subject to a new competitive procurement as deemed to be in the best interest of SRTA), and (ii) an extension of time to the extent a delay is caused by events listed in **Section 12C (Delay and Extensions of Time)**. No change in or modification, termination or discharge of the Services or any component thereof, in any form whatsoever, shall

be valid or enforceable unless it is in writing and signed by SRTA's Customer Service Center Manager.

- B. Change Order. A Change Order shall consist of only such revisions to the Services (but not to quantity) which represent a substantial change from the scope of Services and do not arise from the actions or inactions of the Contractor, as reasonably determined by SRTA. The Contractor shall perform at no additional cost to SRTA, all such additions, deletions and other revisions, the need for which arises from the actions or inactions of the Contractor, its agents, employees, independent contractors, or any other entity or person with whom Contractor entered into an agreement to perform Services (collectively, "Contractor Parties"). Compensation or a reduction in the amount due to Contractor pursuant to the Contract Documents ("Contract Sum") for the work included in a Change Order shall be as set forth in the Change Order.

SRTA may initiate the Change Order procedure by a notice to the Contractor setting forth the proposed Change Order. Within five (5) Business Days thereafter, the Contractor shall provide a detailed proposal which includes proposed prices and a proposed schedule for performance ("Change Order Bid"). The Change Order Bid may be accepted by SRTA or modified by negotiations between the Contractor and SRTA, whereupon a written Change Order shall be executed by both Parties.

- C. Delay and Extensions of Time. SRTA will only grant an extension of time if the Contractor is delayed in the progress of the Services by (i) any act or neglect of SRTA or (ii) an event listed in **Section 25C (Time of the Essence; Force Majeure)**. If and when either event occurs, then the time of completion shall be extended equal to the time lost as a result of the delay. The Contractor expressly agrees that the Contractor's sole and exclusive remedy for such delay shall be an extension of contract time and that the Contractor shall not be entitled to any damages and shall make no demand for any damages. No such extension shall be made for delay occurring more than five (5) days before claim thereof is made in writing to SRTA. In the case of a continuing cause of delay, only one claim is necessary, but no claim for a continuing delay shall be valid unless the Contractor, within five (5) days from the cessation of the delay, shall have given notice in writing to SRTA, with copy to SRTA, as to the amount of additional time claimed.

### 13. Warranties.

- A. General. Contractor hereby expressly represents and warrants the following:
- i. Services/Labor. Contractor represents and warrants that all Services shall (1) conform to the completeness, specifications, standards, and needs included in the ITB, (2) the Services to be performed will be performed on time, and in a workmanlike manner, consistent with the highest level of care and skill exercised by other providers of similar labor and services under similar circumstances at the time the Services are provided, and (3) Contractor performed criminal background checks on each employee performing any Services or a component thereof and there were no negative or potentially negative results on any employee performing any Services or a component thereof.
  - ii. Quality Control. Contractor represents and warrants that Contractor shall ensure that the identification number of each Cruise Card matches the number reflected on the Cover Letter.
  - iii. Compliance with Laws, Rules and Regulations. Contractor represents and warrants that (1) the Services will not be in violation of any applicable law, code, standard, best practices for

the industry, rule or regulation, (2) the Contractor is registered with the Secretary of State and authorized to perform the Services in the State, and (3) Contractor will comply in all respects with all other laws, rules, regulations, ordinances of any Governing Authority that impact or relate in any way to the Services.

- iv. No-waiver. No failure of SRTA to exercise any right or power given to SRTA under this Contract, or to insist upon strict compliance by the Contractor with the provisions of this Contract, and no custom or practice of SRTA or the Contractor at variance with the terms and conditions of this Contract, shall constitute a waiver of SRTA's right to demand exact and strict compliance with the terms and conditions of this Contract.
- B. Inducement. To induce SRTA to enter into this Contract, SRTA shall be entitled to rely upon the representations and certifications made by the Contractor in the Contractor's Bid, without independent investigation and verification, and each such representation or certification shall be deemed to be material to this Contract. The person negotiating and executing this Contract on behalf of the Contractor has the full right, power, and authority to enter into, execute and perform this Contract in accordance with the terms hereof, and when executed and delivered, this Contract will constitute a valid and binding obligation of the Contractor and will be enforceable in accordance with the terms thereof.
- C. Contractor duty to Remedy. Contractor shall, within the time periods designated in this Contract, correct, remedy, replace, re-execute, supply omitted or defective Services and pay for the same, without expense to SRTA. The Contractor shall replace any defective Service, no later than five (5) business days after the date of SRTA's written notification thereof.
- D. Other Remedies. The remedies stated in this **Section 13** are in addition to the remedies otherwise available to SRTA, do not exclude such other remedies, and are without prejudice to any other remedies.

#### 14. Confidentiality.

- A. Obligation of Confidentiality. In order for Contractor to perform the Services called for in this Contract, it may be necessary to review certain of SRTA's confidential information, including but not limited to information related to SRTA's customer data and other confidential information ("Confidential Information"). Contractor agrees that it shall use its best efforts to maintain confidential SRTA's Confidential Information. Further, Contractor shall not disclose, transfer, use, copy, or allow access to any such Confidential Information to any employees or to any third parties excepting those who have a need to know such Confidential Information in order to allow Contractor to perform the Services, and who have executed a nondisclosure agreement consistent with the provisions hereof.
- B. Exceptions. Contractor shall not have any obligation of confidentiality with respect to any information that: (i) can be demonstrated by Contractor to have been in its possession or known by Contractor prior to the receipt under this Contract; (ii) is rightfully disclosed to the Contractor by a third party without restriction; (iii) is disclosed by the Contractor with the written approval of SRTA; or (iv) is obligated to be disclosed by order of a court of competent jurisdiction or is subject to disclosure under the Georgia Open Records Act.
- C. Use of Confidential Information. Contractor and its representatives shall only use the Confidential Information solely for the purpose of providing the Services required under the Contract Documents.

D. Return of Confidential Information. The Contractor shall return to SRTA any Confidential Information immediately on request but no later than upon the termination for whatever reason of this Contract.

15. Incorrectly Performed Services. The Services or a component thereof may be unacceptable because the same fails to conform to the specifications of the Contract Documents or is furnished in breach of the Contract Documents. SRTA may provide written notice to the Contractor of any Service that is not acceptable. If the Contractor fails to cure the defect within the time set forth in any written notice then, in addition to SRTA's other rights and remedies under the Contract and by law, SRTA may cancel the Contract, contract with a different contractor and invoice Contractor for any differential in price over the amount SRTA would have had to pay Contractor under this Contract.

16. Indemnification.

A. General Liability. The Contractor shall be responsible to SRTA during the Term, for all injury or damage of any kind resulting from any negligent act or omission or breach, failure or other default regarding the Services by the Contractor, or any of its agents, employees or others working at the direction of the Contractor or on its behalf.

B. Indemnification. Contractor hereby agrees to indemnify and hold harmless the SRTA, the State of Georgia and its departments, agencies and instrumentalities and all of their respective officers, members, employees and directors (hereinafter collectively referred to as the "Indemnities") from and against any and all claims, demands, liabilities, losses, costs or expenses, including attorneys' fees, due to liability to a third party or parties, for any loss due to bodily injury (including death), personal injury, and property damage arising out of or resulting from the performance of this Contract or any act or omission on the part of the Contractor, its agents, employees or others working at the direction of Contractor or on its behalf, or due to any breach of this Contract by the Contractor, or due to the application or violation of any pertinent Federal, State or local law, rule or regulation. This indemnification extends to the successors and assigns of the Contractor. This indemnification obligation survives the termination of the Contract and the dissolution or, to the extent allowed by law, the bankruptcy of the Contractor. If and to the extent such damage or loss (including costs and expenses) as covered by this indemnification is paid by the State Tort Claims Trust Fund, the State Authority Liability Trust Fund, the State Employee Broad Form Liability Fund, the State Insurance and Hazard Reserve Fund, and other self-insured funds (all such funds hereinafter collectively referred to as the "Funds") established and maintained by the State of Georgia Department of Administrative Services Risk Management Division (hereinafter "DOAS") the Contractor agrees to reimburse the Funds for such monies paid out by the Funds.

DOAS will endeavor to notify affected insurers of claims made against the State that fall within this indemnity. In the event of litigation, SRTA will request the Attorney General will endeavor to keep the Contractor and its general liability insurer as named on the insurance certificate informed regarding the claims and settlement.

The Contractor's obligations under this Section are in addition to Contractor's obligations under **Section 20 (Insurance)**.

17. Limitation of Liability of SRTA. In no event shall SRTA be liable for any incidental, consequential, special, exemplary or indirect damages, lost business profits or the like arising out of this Contract. SRTA's liability to Contractor, if any, shall be limited to direct damages and in such case, only to the extent of the amount SRTA has paid to Contractor under this Contract for the twelve months immediately preceding Contractor's claim.

18. **Default; Damages/Remedies.**

A. **Event of Default.** The following shall constitute an Event of Default on the part of the Contractor:

- i. The Contractor has failed to deliver the Services or a component thereof on a timely basis except to the extent of an excusable delay in accordance with **Section 12C (Delays and Extension of Time)** and the continuance thereof for a period of five (5) Days after notice is given to the Contractor by SRTA;
- ii. The Contractor has failed to remedy defective Services and the continuance thereof for a period of ten (10) Days after notice is given to the Contractor by SRTA;
- iii. The Contractor has failed to provide proof of insurance or copies of insurance policies, as required by **Sections 20 (Insurance)** and the continuance thereof for a period of five (5) Days after notice is given to the Contractor by SRTA;
- iv. The Contractor becomes insolvent (other than pursuant to a case, proceeding, or other action pursuant to subparagraph (a)(xii)), or has assigned the proceeds of the Contract for the benefit of the Contractor's creditors (except any assignment of proceeds as collateral for any loan), or the Contractor has taken advantage of any insolvency statute or debtor/creditor law or the Contractor's property or affairs have voluntarily been put in the hands of a receiver; or any case, proceeding or other action against the Contractor is commenced in bankruptcy, or seeking reorganization, liquidation or any relief under any bankruptcy, insolvency, reorganization, liquidation, dissolution or other similar act or law of any jurisdiction, which case, proceeding or other action remains undismissed, undischarged or unbonded for a period of thirty (30) Days;
- v. The Contractor has failed to provide "adequate assurances" within five (5) days of SRTA's notice, when, in the opinion of SRTA, reasonable grounds for uncertainty exist with respect to the Contractor's ability to perform any of its obligations under this Contract;
- vi. The Contractor has suspended or failed to proceed with any part of the Services and the continuance thereof for a period of three (3) Days after notice is given to the Contractor by SRTA;
- vii. The default in the performance or observance of any of the Contractor's other obligations under the Contract Documents and the continuance thereof for a period of five (5) Days after notice is given to the Contractor by SRTA.

B. **SRTA Damages/Remedies.** Upon the occurrence of an Event of Default, SRTA may, in addition to and without prejudice to all other contractual remedies and/or remedies allowed at law or in equity, proceed to take any or all of the following actions:

- i. Withhold any money then due and/or thereafter due to Contractor;
- ii. Perform or cause to be performed for the account of Contractor any contractual covenant in the performance of which the Contractor is in default or make any payment for which the Contractor is in default. The Contractor shall pay to SRTA upon demand any amount paid or incurred by SRTA in the performance of such covenant. Any amounts which have been paid

or incurred by reason of failure of the Contractor to comply with any covenant or provision of this Contract shall bear interest at the Default Rate, which shall be defined as the Prime Rate plus five (5%) percent, but in no case higher than the highest rate permitted by law, from the date of payment by SRTA until paid by the Contractor; and

- iii. Obtain the Services, or a portion thereof, from a third party under substantially similar terms of this Contract, and recover from Contractor all additional costs and expenses paid or incurred by SRTA as a direct result of the Event of Default, plus all additional costs paid or incurred by SRTA to obtain the replacement Services.

## 19. Termination.

- A. Termination for Cause. Upon an Event of Default, SRTA may, in its sole discretion, terminate this Contract in whole or in part. Termination shall take effect on the date set forth in SRTA's notice to Contractor. Upon such termination SRTA shall not be required to pay Contractor any amounts for Services performed prior to the date of termination for which payment may be due and owing but not yet paid ("Remaining Payment"). In the event SRTA's expenses incurred or anticipated to be incurred as a result of Contractor's breach are less than the Remaining Payment, SRTA shall remit such differential to the Contractor. In the event SRTA's expenses incurred or anticipated to be incurred as a result of Contractor's breach exceed the Remaining Payment, then Contractor shall within five (5) days written notice from SRTA, make payment of the differential to SRTA. In addition to the rights and remedies in this **Section 19A**, SRTA shall have all other rights and remedies against Contractor which are available at law or in equity. The Contractor acknowledges that the remedy set forth in this **Section 19A** is the Contractor's sole and exclusive remedy against SRTA for termination for cause and Contractor hereby waives all other rights and remedies it may have against SRTA.
- B. Termination for Convenience. SRTA may terminate this Contract for convenience upon 30 days written notice, which shall commence upon the date of said notice. In the event of a termination for convenience, SRTA shall only pay the Contractor for Services performed through the termination date. SRTA shall not be responsible for any other costs, fees and expenses of any nature whatsoever, including but not limited to administrative fees, legal fees, salary, or any other cost or expense, whether direct or indirect, whether foreseen or unforeseen. The Contractor acknowledges that the remedy set forth in this **Section 19B** is the Contractor's sole and exclusive remedy against SRTA for termination for convenience and Contractor hereby waives all other rights and remedies it may have against SRTA.
- C. Compliance with Contract. Contractor shall comply with all of the terms and conditions of the Contract Documents in the event SRTA exercises any of its rights under this **Section 19**.
- D. Termination in the Event of a Successful Protest. The Parties agree that SRTA may terminate this Contract in the event of a successful protest without penalty or cost. Contractor shall have no recourse against SRTA in the event SRTA terminates the Contract pursuant to this **Section 19D** and Contractor hereby waives all rights and remedies it may have against SRTA for termination in the event of a successful protest, whether under this Contract, at law or in equity.

## 20. Insurance.

- A. Obligation to Insure. The Contractor shall procure the insurance coverages identified below at the Contractor's expense and shall furnish SRTA an insurance certificate listing the SRTA as the certificate holder and an endorsement listing SRTA as an additional insured. Evidence of insurance coverages shall be provided on the form acceptable to SRTA and the Georgia Office of

the Insurance Commissioner. The insurance certificate must provide the following:

- i. Name and address of authorized agent, Signature of authorized agent.
- ii. Name and address of insured.
- iii. Name of insurance company(ies).
- iv. Description of policies, Policy Number(s), Policy Period(s).
- v. Limits of liability.
- vi. Name and address of SRTA as certificate holder.
- vii. Project Name and Number.
- viii. Telephone number of authorized agent.
- ix. Mandatory 30 day notice of cancellation or non-renewal (10 days for non-payment).

B. Insurer Qualifications, Insurance Requirements. Each of the insurance coverages required below (i) shall be issued by a company licensed by the State Insurance Commissioner to transact the business of insurance in the State for the applicable line of insurance, and (ii) shall be an insurer (or, for qualified self-insureds or group self insureds, a specific excess insurer providing statutory limits) with a Best Policyholders Rating of "A-" or better and with a financial size rating of Class V or larger. Each such policy shall contain the following provisions:

- i. The insurance company agrees that the policy shall not be canceled or allowed to lapse or allowed to expire until thirty days after the SRTA has received written notice thereof, as evidenced by return receipt of certified mail or statutory mail, or until such time as other insurance coverage providing protection equal to protection called for in this Contract shall have been received, accepted and acknowledged by the SRTA. Such notice shall be valid only as to the Project as shall have been designated by Project Number and Name in said notice. Contractor shall provide written notice of any changes to the policy to the SRTA within three business days of Contractor's receipt of notice of any changes or proposed changes from the insurance company.
- ii. The policy shall not be subject to invalidation as to any insured by reason of any act or omission of another insured or any of its officers, employees, agents or other representatives ("Separation of Insureds").
- iii. Each insurer is hereby notified that the statutory requirement that the Attorney General of Georgia shall represent and defend the Indemnities remains in full force and effect and is not waived by issuance of any policy of insurance. In the event of litigation, any settlement on behalf of the Indemnities must be expressly approved by the Attorney General. The Contractor and its insurance carrier may retain, but are not obligated to retain, counsel to assist with the defense of the Indemnities, in which case there will be mutual cooperation between the Attorney General and such counsel. See O.C.G.A. § 45-15-12.
- iv. All deductibles shall be paid for by the Contractor. Self-insured retention, except for qualified self-insurers or group self-insurers, in any policy, shall not exceed \$100,000.00.

C. Required Insurance Coverages. The Contractor also agrees to purchase insurance and have the authorized agent state on the insurance certificate that the Contractor has purchased the following types of insurance coverages, consistent with the policies and requirements of O.C.G.A. §50-21-37. The minimum required coverages and liability limits are as follows:

- i. Workers' Compensation Insurance. The Contractor shall provide at a minimum Workers' Compensation coverage in accordance with the statutory limits as established by the General Assembly of the State of Georgia. A group insurer must submit a certificate of authority

from the Insurance Commissioner approving the group insurance plan. A self-insurer must submit a certificate from the Georgia Board of Workers' Compensation stating the Contractor qualifies to pay its own workers' compensation claims.

- ii. Employers' Liability Insurance. The Contractor shall also maintain Employer's Liability Insurance Coverage with limits of at least:
  - Bodily Injury by Accident \$1,000,000 each accident; and
  - Bodily Injury by Disease \$1,000,000 each employee.
- iii. Commercial General Liability Insurance. The Contractor shall provide Commercial General Liability Insurance (2001 ISO Occurrence Form or equivalent) that shall include, but need not be limited to personal injury liability and contractual liability. The CGL policy must include separate aggregate limits per Project and shall provide at a minimum the following limits:
  - Personal Injury \$ 1,000,000.00 per Occurrence
  - Contractual \$ 250,000.00 per Occurrence
  - General Aggregate \$ 1,000,000.00 per Project
- iv. Insurance for Cruise Cards. Immediately upon its receipt of the Cruise Cards, Contractor shall store the Cruise Cards in a facility that is secure and insured. The Contractor shall also obtain contents insurance for the Cruise Cards in an amount not less than \$750,000.00.
- v. Commercial Umbrella Liability Insurance. The Contractor shall provide a Commercial Umbrella Liability Insurance to provide excess coverage above the Commercial General Liability, and the Workers' Compensation and Employers' Liability to satisfy the minimum limits set forth herein. The umbrella coverage shall follow form with the Umbrella limits required as follows:
  - \$1,000,000 per Occurrence
  - \$2,000,000 Aggregate

D. Additional Requirements. The insurance policies provided in **Section 20C** shall also name as additional insureds the officers, members, and employees of SRTA and shall also be on an "occurrence" basis.

E. General. One original certificate of insurance with all endorsements attached must be deposited with SRTA for each insurance policy required. Unless otherwise expressly provided to the contrary, the obligation to insure as provided herein shall not terminate until the expiration or other termination of the Contract. The Contractor is responsible for any delay resulting from the failure of his insurance carriers to furnish proof of proper coverage in the prescribed form. Contractor is responsible for tracking insurance coverages, for ensuring that coverages remain in force throughout the duration of the Contract, and for demonstrating to SRTA ongoing compliance with this **Section 20**. The Contractor's obligations under this **Section 20** are in addition to Contractor's obligations under **Section 16 (Indemnification)**.

21. Records Retention and Audit Rights. Contractor shall maintain accurate books, records, documents and other evidence concerning Contractor's performance of Services under this Contract (hereinafter referred to as the "Records") for five (5) years after termination of the Contract. Contractor agrees to make available, at all reasonable times during which this Contract is in effect the Records for inspection or audit by any authorized representative of SRTA or the Georgia State Auditor. The government entity, its authorized agents, and federal and state regulatory and grantor agencies, including the Georgia Department of Audits and Accounts, shall have full access to and the

right to examine any of said materials during said period at no cost to either the government entity or any other entity authorized to examine said materials.

22. **Cooperation, Transition, End of Contract Responsibilities.**

- A. **Cooperation.** This Contract is entered into solely for the convenience of SRTA, and it in no way precludes SRTA from obtaining like Services from other vendors. In the event that SRTA enters into any agreement at any time with any other vendor(s) for additional work related to the Services, Contractor agrees to cooperate fully with such other vendors in order to facilitate the provision of Services by such other vendors and to refrain from any activity which would interfere with performance of the Services by such other vendor.
- B. **Transition.** Upon expiration or earlier termination of this Contract, Contractor shall accomplish a complete transition of the Services from Contractor to SRTA, or to any replacement provider designated by SRTA, without any interruption of, or adverse impact on the Services or any component thereof. Contractor shall cooperate fully with SRTA or such replacement contractor and promptly take all steps required to assist in effecting a complete transition. All Services related to such transition shall be performed at no additional cost beyond what would be paid for the Services hereunder.
- C. **End of Contract.** The Contractor shall perform the end of Contract responsibilities as specified by SRTA upon the expiration or earlier termination of this Contract.

23. **Conflicts of Interest.** The Contractor represents and warrants that it, its principals, its employees, and all others in close association with it, have no conflict of interest or of time, directly or indirectly, that would prevent timely performance of the Services in a manner that is free of appearance or fact of impropriety. The Contractor promises to allow no such conflict to arise and promises to disclose such a conflict in the event that, nevertheless, one develops.

24. **Minimum Order Amount.** SRTA *estimates* that Contractor will package and ship 61,000 units. The actual amount of units may increase or decrease, without a Change Order, depending solely on SRTA's needs. Notwithstanding the preceding, SRTA shall request a minimum of 5,000 packages be packaged and mailed by the close of Fiscal Year 2010 through the Contract awarded pursuant to this ITB.

25. **Miscellaneous Provisions.**

- A. **Compliance with laws.** The Contractor shall perform its obligations hereunder in accordance with all applicable federal, state, and local government laws, rules, regulations, orders and approvals, including but not limited to procedures and requirements relating to labor standards, equal employment opportunity, nondiscrimination, compliance with Americans with Disabilities Act, anti-solicitation, O.C.G.A. §50-5-82, O.C.G.A. §13-10-91.
- B. **Parties Bound.** This Contract will bind the respective heirs, executors, administrators, legal representatives, successors, and assigns of each Party.
- C. **Time of the Essence; Force Majeure.** Time is of the Essence for this Contract. *Force Majeure* means any cause beyond the control of Contractor, including but not limited to: (i) a tornado, flood or unusual weather occurrence, landslide, earthquake, fire or other casualty, strike or labor disturbance, freight embargo, act of a public enemy, explosion, war, blockade, terrorist act, insurrection, riot, general arrest or restraint of government and people, civil disturbance or similar occurrence, or sabotage; or act of God provided that the Contractor shall not be required to settle

any strike or labor disturbance in which it may be involved or (ii) the order or judgment of any federal, state or local court, administrative agency or governmental officer or body, if it is not also the result of willful or negligent action or a lack of reasonable diligence of the Contractor and the Contractor does not control the administrative agency or governmental officer or body; provided that the diligent contest in good faith of any such order or judgment shall not constitute or be construed as a willful or negligent action or a lack of reasonable diligence of the Contractor. Contractor's exclusive remedies for Force Majeure are set forth in **Section 12C (Delays and Extension of Time)**.

- D. Trading with State Employees. The Contractor warrants that the provisions of O.C.G.A. §§45-10-20 *et seq.* have not and will not be violated under the terms of this Contract.
- E. Governing Law and Venue. This Contract will be enforced according to Georgia law without regard to its conflict of laws rules or any other rules directing referral to foreign law or forums. Any action related to this agreement in any way shall be brought exclusively in the Superior Court of Fulton County, Georgia, and each Party hereby consents to the jurisdiction and venue of such Court and the appropriate appellate courts therefrom in any such action and irrevocably waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the personal jurisdiction and venue of such court and to any claim of inconvenient forum.
- F. Notices. All notices, notifications, requests, or other communications (excluding invoices) hereunder shall be in writing and transmitted via hand delivery, overnight courier, or certified mail (return receipt requested), to the Parties at the respective addresses set forth below. Invoices may also be sent by U.S. Mail, postage prepaid. Notices will be deemed to have been given when received, unless otherwise noted in the Contract. If a Party refuses to accept delivery or fails to take delivery, notice shall be deemed given on the day delivery is first attempted. Notice may also be given by email, provided a hard copy of the notice is also transmitted via hand delivery, overnight courier, or certified mail (return receipt requested), to the Parties at the respective addresses set forth below.

*For SRTA:*  
Attn: CSC Manager  
47 Trinity Avenue, 4<sup>th</sup> Floor  
Atlanta, Georgia 30334  
Phone: (404) 893-6100  
Fax: (404) 893-6163  
Email: [csanders@georgiatolls.com](mailto:csanders@georgiatolls.com)

*For the Contractor:*

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- G. Compliance with Laws; Taxes. The Contractor will pay all taxes lawfully imposed upon it that may arise with respect to this Contract.
- H. Publicity. Contractor shall not issue a press release or otherwise publicize the Services or this Contract without the prior written permission of SRTA.
- I. Drug-Free Workplace.
  - i. If Contractor is an individual, he or she hereby certifies that he or she will not engage in the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana during the performance of this Agreement.

- ii. If Contractor is an entity other than an individual, it hereby certifies that (x) a drug free workplace will be provided for the Contractor's employees during the performance of this Agreement, and (y) it will secure from any subcontractor hired to work in a drug free workplace the following written certification: "As part of the subcontracting agreement with (Contractor's Name), (Subcontractor's Name), certifies to the Contractor that a drug free workplace will be provided for the subcontractor's employees during the performance of this Agreement pursuant to paragraph 7 of subsection B of Code Section 50-24-3." (3) Contractor may be suspended, terminated, or debarred if it is determined that (a) the Contractor has made false certification hereinabove, or (b) the Contractor has violated such certification by failure to carry out the requirements of O.C.G.A. § 50-24-3
- J. Remedies Cumulative. The rights and remedies of SRTA under this Contract are cumulative of one another and with those otherwise provided by law or in equity.
- K. Waiver and Severability. The waiver by either Party of a breach of any provision of this Contract shall not be deemed to be a waiver of such provision on any subsequent breach of the same or any other provision of this Contract. Any such waiver must be in writing in order to be effective, and no such waiver shall establish a course of performance between the Parties contradictory to the terms hereof. All provisions of this Contract are severable, and the unenforceability or invalidity of any of the provisions will not affect the validity or enforceability of the remaining provisions. The remaining provisions will be construed so as to carry out the full intention of the Parties.
- L. No Third Party Beneficiaries. Nothing contained in the Contract Documents shall be construed as conferring upon or giving to any person, other than the Parties hereto, any rights or benefits under or by reason of this Contract.
- M. Headings. The captions in this Contract are solely for convenience, and will not affect the interpretation of any terms of this Contract.
- N. Counterparts. The Parties may execute this Contract in counterparts.
- O. Construction of Contract. In the event this Contract must be interpreted by a court of competent jurisdiction, the Parties expressly agree that this is a negotiated Contract that will not be construed against one Party over the other because such Party drafted the Contract.
- P. Survival. In addition to those provisions, which by their terms would naturally survive termination of the Contract, **Sections 7 (Data Ownership/Security), 11 (Payment Terms), 13 (Warranties), 14 (Confidentiality), 16 (Indemnification), 17 (Limitation of Liability of SRTA), 18 (Default; Damages/Remedies), 20 (Insurance), 21 (Records Retention and Audit Rights), and 25 (Miscellaneous Provisions)** shall survive the termination for whatever reason of this Contract.
- Q. Entire Contract; Amendment. This Contract contains the entire agreement between the Parties with respect to its subject matter and supersedes all other prior and contemporaneous contracts and understandings between the Parties, whether oral or written. SRTA shall not be bound by any terms and conditions included in any invoice, catalog, brochure, or other document prepared by the Contractor which attempts to impose any condition in variance with or in addition to the terms and conditions contained herein. No amendment to this Contract shall be valid unless made in writing and signed by both Parties.
- R. Days. *Days* shall mean calendar days unless otherwise specified in the Contract.
- S. State. *State* means the State of Georgia.
- T. Governmental Authority. *Governmental Authority* means any federal or other government or governmental department, commission, council, court, board, bureau, agency, authority or instrumentality (whether executive, legislative, judicial, administrative or regulatory), of or within

the United States of America, including, without limitation, the State of Georgia and its respective courts, agencies, instrumentalities and regulatory bodies, or any entity that acts “on behalf of” any of the foregoing, whether as an agency or authority of such body.

- U. Audit Rights. SRTA and the State Contractor shall have the right, exercisable at any reasonable time during normal business hours, to inspect and audit any books and records of the Contractor concerning its performance of the Services.
  
- V. Registered Lobbyists. Contractor represents and warrants that Contractor and its lobbyists, if any, are in compliance with the Lobbyist Registration Requirements set forth in the Georgia Vendor Manual.

**IN WITNESS WHEREOF**, the Parties have caused this Contract to be signed, sealed and delivered as of the Effective Date.

State Road and Tollway Authority

Contractor (SEAL)

By: \_\_\_\_\_  
Gena L. Evans, Ph.D.  
Executive Director

By: \_\_\_\_\_  
Name:  
Title:

Attest: \_\_\_\_\_  
Christopher Tomlinson  
Director of Legal Services

Attest: \_\_\_\_\_  
Name:  
Title:

Exhibit A

The ITB is incorporated herein by reference.

Exhibit B

The Contractor's Bid is incorporated herein by reference.

**APPENDIX D – CONTRACT**

**EXHIBIT C  
PRICING**

**Contractor's Bid Sheet follows on the next page.**