

## **EXHIBIT A**

### **AGREEMENT**

This Agreement is entered into by and between the City of Carrollton, Texas, a home rule city and municipal corporation of Dallas County, Texas, duly acting by and through its City Manager, hereinafter referred to as CITY, and CYRUS NETWORKS, LLC., acting by and through Paul Marvin, Chief Financial Officer, hereinafter referred to as OWNER.

#### **WITNESSETH:**

WHEREAS, the CITY finds that the administration of a program of grants to OWNER for a limited time in amounts equal to a portion of CITY taxes paid on personal and real property, hereafter referred to as PROGRAM, would promote local economic development and stimulate business and commercial activity within the municipality and would directly establish a public purpose; and,

WHEREAS, the CITY has determined that the said PROGRAM contains sufficient controls to ensure that the above-mentioned public purposes are carried out in all transactions involving the use of public funds and resources in the establishment and administration of the PROGRAM; and,

WHEREAS, V.T.C.A., Local Government Code Chapter 380 provides statutory authority for establishing and administering the said PROGRAM, including making loans and grants of money.

NOW THEREFORE, the parties do mutually agree as follows:

1. From the execution of this AGREEMENT to the end of the AGREEMENT period, City of Carrollton personal and real property taxes shall be payable as follows:

- a. The personal property to be the subject of this AGREEMENT shall be confined to the property at 1649 W. Frankford Rd., Carrollton, Texas 75007 (as described in the attached property description marked EXHIBIT B), hereinafter referred to as PREMISES.
- b. BASE YEAR VALUE shall mean the assessed value of the personal and real property on PREMISES on January 1 of the year 2011.
- c. Value of ineligible property shall be fully taxable; additional value of new eligible IMPROVEMENTS shall be fully taxed but used in the calculation of the grant in this PROGRAM; and all personal and real property shall be fully taxed at the end of this AGREEMENT.
- d. Values shall be the same as the value of such property as determined annually by the Denton County Central Appraisal District, subject to the appeal procedures set forth in the V.T.C.A. Tax Code. Any decrease in value after appeal is subject to recalculation of the appropriate amount of the grant from the City under this AGREEMENT. If the City has already issued the grant to the OWNER based on the larger value, payment to the CITY by OWNER of such difference shall be remitted within 60 days to CITY after final determination of appeal.

2. Subject to the terms and conditions of this AGREEMENT, and subject to the rights of holders of any outstanding bonds of the CITY, CITY shall make grants pursuant to the

PROGRAM to the OWNER in amounts equal to 90% of the City of Carrollton personal and real property taxes assessed and paid upon value of personal and real property for the years 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020 and 2021 less the BASE YEAR VALUE since this incentive is for personal and real property values established after the Base Year 2011. Any increase in personal and real property value after Base Year 2011 will be rebated as described in this section. The CITY shall make such grants in accordance with this AGREEMENT to the OWNER within 60 days of full payment of all taxes by OWNER to the CITY on the PREMISES.

3. The OWNER agrees and covenants that it will diligently and faithfully, in a good and workmanlike manner, make improvements to the PREMISES including but not limited to the regional office with a minimum total in excess of 659,000 square feet, which shall be included in the IMPROVEMENTS, in accordance with all applicable state and local laws and regulations or a valid waiver thereof.

4. OWNER shall thereafter, from the date of execution of this AGREEMENT until the expiration of the grant agreement, make such IMPROVEMENTS and continuously operate, occupy and maintain the PREMISES for the following described purpose, hereinafter referred to as the PURPOSES: regional office.

5. In the event that: (1) IMPROVEMENTS described in paragraph 3 of this agreement are not completed and a certificate of occupancy is not issued by CITY for said PREMISES by December 31, 2012; or (2) OWNER allows its personal and real property taxes owed the CITY for the PREMISES to become delinquent and fails to timely and properly follow the legal procedures for protest and/or contest of any such personal and real property taxes; or (3) OWNER fails to occupy the IMPROVEMENTS for the PURPOSES set forth in paragraph 3 above by December 31, 2012; or (4) OWNER breaches any of the terms or conditions of the AGREEMENT, then the OWNER shall be in default of this AGREEMENT. In the event that the OWNER defaults in its performance of (1), (2), (3), or (4) above, then the CITY shall give the OWNER written notice in accordance with paragraph 9 below of such default. If OWNER has not cured such default or obtained a valid waiver thereof from the appropriate authority within a thirty (30) day period owing to causes beyond the control of the OWNER, this AGREEMENT may be terminated by the CITY. Notice of termination shall be in writing as provided in paragraph 9 below. In the event of termination pursuant to the provisions of the paragraph, the CITY will not make a grant to the OWNER, pursuant to this AGREEMENT, for the calendar year during which the default occurred or any years thereafter, but there shall be no recapture of grants that were issued to OWNER in prior years.

6. The terms and conditions of this AGREEMENT are binding upon the successors and assigns of all parties hereto. This AGREEMENT cannot be assigned by OWNER unless written permission is first granted by the CITY. CITY's consent to assignment of the AGREEMENT to a tenant or lessee of OWNER, for a grant in the amount of 90% of the City of Carrollton personal and real property taxes assessed and paid by tenant or lessee upon value of personal and real property for the 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020 and 2021 (unless terminated earlier) less the BASE YEAR VALUE shall not be unreasonably

withheld, so long as OWNER's lessee or tenant agrees in writing to be bound by all terms and conditions of this AGREEMENT.

7. It is understood and agreed between the parties that the OWNER, in performing its obligations thereunder, is acting independently, and the CITY assumes no responsibilities or liabilities in connection therewith to third parties, and OWNER agrees to indemnify and hold CITY harmless therefrom; it is further understood and agreed among parties that the CITY, in performing its obligations hereunder, is acting independently, and the CITY assumes no responsibilities in connection therewith to third parties.

8. The OWNER further agrees that the CITY, its agents and employees, shall have reasonable rights of access to the PREMISES to inspect the property in order to ensure that the facility is in accordance with all applicable agreements with the CITY, including this AGREEMENT, and all applicable state and local laws and regulations, as well as the continuing right, subject to OWNER's reasonable security requirements, to inspect the PREMISES to ensure that the PREMISES are thereafter maintained, operated, and occupied in accordance with all applicable agreements with the CITY.

9. Notices required to be given to any party to this AGREEMENT shall be in writing and shall be duly served when it shall have been deposited, enclosed in a wrapper with proper postage prepaid thereon, addressed to the party at its address as set forth below, and shall be deemed to have been received three days after the date deposited in the United States Mail:

For CITY by notice to:

City of Carrollton  
Attn: City Manager  
P. O. Box 110535  
Carrollton TX 75011-0535

With copy to:

City Attorney  
P. O. Box 110535  
Carrollton TX 75011-0535

For Owner by notice to:

Paul Marvin  
Chief Financial Officer  
CyrusOne  
4211 SW Freeway  
Houston, TX 77027

Any party may change the address to which notices are to be sent by giving the other parties written notice in the manner provided in this paragraph.

10. On the first day of February, 2013, and annually thereafter on the first day of February, OWNER shall certify to the CITY its compliance with each applicable term of this AGREEMENT on that date and, if applicable, for the previous year.

11. This AGREEMENT was authorized by action of the City Council, authorizing the City Manager to execute the AGREEMENT on behalf of the CITY. This action by the Council was at a meeting open to the public, and that public notice of the time, place and purpose of said meeting was given, all as required by Texas Open Meetings Act, V.T.C.A. Government Code, and Chapter 551.

12. Under Chapter 2264 of the Texas Local Government Code, OWNER has submitted the required certification that the business, or a branch, division, or department of the business, does not and will not knowingly employ an undocumented worker. An undocumented worker means an individual who, at the time of employment, is not lawfully admitted for permanent residence to the United States or authorized under the law to be employed in that manner in the United States. If after receiving this public subsidy/grant from the CITY, the OWNER, or a branch, division, or department of the business, is convicted of a violation under 8 U.S.C. Section 1324a(f), the OWNER shall repay the amount of the grant from the CITY with interest, at the rate of 5% according to the terms provided by this AGREEMENT under Section 2264.053, but not later than the 120<sup>th</sup> day after the date the public agency, state or local taxing jurisdiction, or economic development corporation notifies the OWNER of the violation. CITY may exercise all rights to enforce this recovery as allowed by Subchapter C of Chapter 2264 or any other laws.

13. This shall constitute a valid and binding AGREEMENT between the CITY and CYRUS NETWORKS, LLC upon execution, and the terms and conditions are binding upon the successors and assigns of all parties hereto.

14. OWNER warrants to the best of its knowledge that the PREMISES do not include any property that is owned by a member of the City Council or any board, Commission or other governmental body approving or having responsibility for the approval of this AGREEMENT.

15. If any provision of this AGREEMENT or the application thereof to any person or circumstances shall be invalid or unenforceable to any extent, and such invalidity or unenforceability does not destroy the basis of the bargain between the parties, then the remainder of this AGREEMENT and the application of such provisions to other persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

16. Venue of any action to enforce any of the provisions hereof shall lie exclusively in Dallas County, Texas. The laws of the State of Texas shall apply in all respects to interpretation of the AGREEMENT.

17. This AGREEMENT has been executed by the parties in multiple originals, each having full force and effect.

EXECUTED the 6<sup>th</sup> day of December, 2011.

ATTEST:

*Ashley D. Mitchell*  
Ashley D. Mitchell, City Secretary



CITY OF CARROLLTON, TEXAS

*Leonard Martin*  
Leonard Martin, City Manager

APPROVED AS TO FORM:

*Regina Edwards*  
Regina Edwards  
First Assistant City Attorney

APPROVED AS TO CONTENT:

*Brad Mink*  
Brad Mink  
Director of Economic Development

CYRUS NETWORKS, LLC

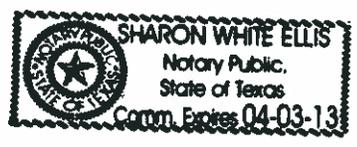
*Paul D. Marvin*  
Paul Marvin  
Chief Financial Officer  
4211 SW Freeway  
Houston, TX 77027

STATE OF Texas )

COUNTY OF Harris )

**BEFORE ME**, the undersigned authority, on this day personally appeared Paul D. Marvin Chief Financial Officer, \_\_\_\_\_ known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and considerations therein expressed, in the capacity therein stated and as the act and deed of said corporation.

**GIVEN UNDER MY HAND AND SEAL OF OFFICE** this 9<sup>th</sup> day of January, 2012



*Sharon White Ellis*  
Notary Public  
Sharon White Ellis  
Printed or Typed Name of  
Notary Public

Notary Public

My commission expires:

\_\_\_\_\_



## LEGAL DESCRIPTION – TRACT 1

BEING a tract of land situated in the William B. Rowe Survey, Abstract No. 1124 and the Lionel Simpson Survey, Abstract No. 1211, in the City of Carrollton, Denton County, Texas, and being all of Block C, Lot 7 of Frankford Trade Center, an addition to the City of Carrollton, Texas, as recorded in both Cabinet R, Pages 156-158 of the Plat Records of Denton County, Texas (P.R.D.C.T.), and in Volume 2000005, Page 00424 of the Official Public Records of Dallas County, Texas, said tract also being all of that tract of land described as Tract 1 in Substitute Trustee's Deed and Bill of Sale to COMM 2006-C8 FRANKFORD ROAD, LLC, a Texas limited liability company, as recorded in Document No. 2009-82754, of the Official Records of Denton County, Texas, and being more particularly described as follows:

BEGINNING at a 1/2-inch iron rod found for the most northerly common corner of said Lot 7 and Block C, Lot 6R of said Frankford Trade Center addition, said point being in the southeasterly line of Block C, Lot 8 of said Frankford Trade Center addition;

THENCE North 28 degrees 54 minutes 19 seconds East, along the common southeasterly line of said Lot 8 and the northwesterly line of said Lot 7, a distance of 347.20 feet to a 1/2-inch iron rod with cap found for corner;

THENCE North 12 degrees 22 minutes 42 seconds West, continuing along said common line, a distance of 24.32 feet to a 1/2-inch iron rod found on a non-tangent circular curve to the left having a radius of 1,050.00 feet and whose chord bears North 64 degrees 31 minutes 29 seconds East a distance of 475.85 feet, said point being on the south right-of-way line of West Frankford Road (a 120 foot wide right-of-way);

THENCE in a Northeasterly direction, departing said common line and along said circular curve to the left and along said south right-of-way line, through a central angle of 26 degrees 11 minutes 36 seconds, an arc distance of 480.02 feet to a point from which a found "X" in concrete bears North 04 degrees 36 minutes 46 seconds East a distance of 0.19 feet, said point being the most northerly common corner of said Lot 7 and Block A, Lot 1 of the Frankford Trade Center, Part 2, as recorded in Cabinet Y, Page 632, P.R.D.C.T.;

THENCE South 40 degrees 21 minutes 48 seconds East, departing said south right-of-way line, along the common line between said Lot 7 and Block A, a distance of 1,082.62 feet to a 1/2-inch iron rod with cap found for corner;

THENCE North 89 degrees 02 minutes 37 seconds East, continuing along said common line, a distance of 105.83 feet to a 1/2-inch iron rod with cap found for corner;

THENCE North 44 degrees 02 minutes 36 seconds East, continuing along said common line, a distance of 14.14 feet to a 1/2-inch iron rod with cap found for the most westerly common corner of said Lots 7 and Block A, said point being on the west right-of-way line of Commodore Drive (a 60 foot wide right-of-way);

THENCE South 00 degrees 57 minutes 23 seconds East, departing said common line and along said west right-of-way line, a distance of 581.69 feet to a 1/2-inch iron rod with cap set for the point of curvature of a circular curve to the right having a radius of 720.00 feet and whose chord bearing South 20 degrees 39 minutes 36 seconds West a distance of 530.48 feet;

THENCE in a Southwesterly direction, continuing along said west right-of-way line and along said circular curve to the right, through a central angle of 43 degrees 13 minutes 58 seconds, an arc distance of 543.28 feet to a 1/2-inch iron rod with cap found for the most southerly common corner of said Lots 7 and 6R;

THENCE North 40 degrees 21 minutes 48 seconds West, departing said west right-of-way line and along the common line between said Lots 7 and 6R, a distance of 961.74 feet to a 1/2-inch iron rod with cap found for corner;

THENCE South 49 degrees 38 minutes 12 seconds West, continuing along said common line, a distance of 58.50 feet to a 1/2-inch iron rod with cap set for corner;

THENCE North 40 degrees 21 minutes 48 seconds West, continuing along said common line, a distance of 871.00 feet to the POINT OF BEGINNING AND CONTAINING 1,304,535 square feet or 29.95 acres of land, more or less.

#### LEGAL DESCRIPTION – TRACT 2 (EASEMENT ESTATE)

EASEMENT AS CREATED in Common Drainage Easement, dated October 22, 2009, filed October 25, 1999, by and between Argent Frankford, L.P., and CalWest Texas Properties, L.P, as recorded in Volume 4453, Page 1037, of the Deed Records of Denton County, Texas.

#### LEGAL DESCRIPTION - TRACT 3 (EASEMENT ESTATE)

EASEMENT AS CREATED in Common Access Easement, dated October 22, 1999, filed October 25, 1999, as recorded in Volume 4453, Page 01029 of the Deed Records of Denton County, Texas, said Easement being shown as "Mutual Access Easement" on the replat of Frankford Trade Center, an addition to the City of Carrollton, Texas, as recorded on January 11, 2000, in Cabinet R, Pages 156-158, of the Deed Records of Denton County, Texas, and as recorded on January 7, 2000, in Volume 2000005, Page 00424 Deed Records of Dallas County, Texas, and being more particularly described below:

## COMMON/MUTUAL ACCESS EASEMENT

BEING a 0.2139 acre tract of land situated in the Lionel Simpson Survey, Abstract No. 1211, Denton County, Texas, and being part that tract of land described as Block C, Lot 5R1 of Frankford Trade Center, an addition to the City of Carrollton, Texas, as recorded in both Cabinet R, Pages 156-158 of the Deed Records of Denton County, Texas, and in Volume 2000005, Page 00424 of the Deed Records of Dallas County, Texas, also being part of Block C, Lot 7 of said Frankford Trade Center addition, and being more particularly described as follows:

BEGINNING at a point from which a found "X" in concrete bears North 04 degrees 36 minutes 46 seconds East a distance of 0.19 feet, said point being the most northerly common corner of said Lots 5R1 and 7, said point being on the south right-of-way line of West Frankford Road (a 120 foot wide right-of-way), said point also being on a circular curve to the left having a radius of 1,050.00 feet and whose chord bears North 50 degrees 38 minutes 52 seconds East a distance of 28.58 feet;

THENCE in a Northeasterly direction, along said south right-of-way line and along said curve to the left, through a central angle of 01 degree 33 minutes 35 seconds, an arc distance of 28.58 feet to a point for corner;

THENCE South 40 degrees 21 minutes 48 seconds East, departing said south right-of-way line, a distance of 79.79 feet to a point for corner;

THENCE South 25 degrees 56 minutes 33 seconds East, a distance of 114.75 feet to a point for corner on the common line of said Lots 5R1 and 7;

THENCE South 49 degrees 38 minutes 12 seconds West, departing said common line, a distance of 28.35 feet to a point for corner;

THENCE North 40 degrees 21 minutes 48 seconds West, a distance of 192.70 feet to a point for corner on said south right-of-way line of West Frankford Road, said point being on a circular curve to the left having a radius of 1,050.00 feet and whose chord bears North 52 degrees 12 minutes 09 seconds East as distance of 28.38 feet;

THENCE in a Northeasterly direction, along said south right-of-way line and along said circular curve to the left, through a central angle of 01 degree 32 minutes 55 seconds, an arc distance of 28.38 feet to the POINT OF BEGINNING AND CONTAINING 9,317 square feet or 0.2139 acres of land, more or less.

## LEGAL DESCRIPTION – TRACT 4 (EASEMENT ESTATE)

EASEMENT AS CREATED in Common Drainage Easement, dated October 22, 2009, filed January 6, 2000, by Argent Frankford, L.P., as recorded in Volume 4500, Page 1481, of the Deed Records of Denton County, Texas.