



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		10/14/13		
Department:		Finance		
Department Head		Denise Tacke		
Agenda Coordinator (include phone #): Katherine Crumbley - x-7479				
CAPTION				
<p>A Resolution of the City Council of the City of Plano, Texas, approving and authorizing the execution of a Special Escrow Agreement for the deposit of funds in an amount sufficient to defease and pay certain outstanding "City of Plano, Texas, General Obligation Refunding and Improvement Bonds, Series 2005"; providing for the redemption of certain outstanding bonds of such series and resolving other matters incident and related thereto; and authorizing its execution by the City Manager or his authorized designee and providing an effective date.</p>				
FINANCIAL SUMMARY				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR: 2013-2014	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
FUND(S): BOND CLEARING FUND				
<p>COMMENTS: This item has a balance sheet only financial impact. Unspent bond proceeds will be used to defease outstanding debt. The amount of the unspent proceeds is \$2,445,365. STRATEGIC PLAN GOAL: Special Escrow Agreements for defeasement of bonds relate to the City's Goal of Financially Strong City with Service Excellence.</p>				
SUMMARY OF ITEM				
<p>This Agreement calls for the deposit of funds sufficient to defease and pay or provide for the redemption of outstanding City of Plano Bonds.</p>				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	
Resolution Special Escrow Agreement Notice of Redemption				

A Resolution of the City Council of the City of Plano, Texas, approving and authorizing the execution of a Special Escrow Agreement for the deposit of funds in an amount sufficient to defease and pay certain outstanding “City of Plano, Texas, General Obligation Refunding and Improvement Bonds, Series 2005”; providing for the redemption of certain outstanding bonds of such series and resolving other matters incident and related thereto; and authorizing its execution by the City Manager or his authorized designee and providing an effective date.

WHEREAS, the City of Plano, Texas (the “City”) has issued and there is currently outstanding certain bonds more particularly described as follows: City of Plano, Texas, General Obligation Refunding and Improvement Bonds, Series 2005, dated May 15, 2005, being a portion of such bonds scheduled to mature on September 1, 2020, and aggregating in the principal amount referenced in the Escrow Agreement referenced below (the “Defeased Obligations”); and

WHEREAS, in accordance with the provisions of Texas Government Code, Chapter 1207, as amended, the City is authorized and empowered to deposit funds directly with the place of payment for the Defeased Obligations, or other authorized depository, and enter into an escrow or similar agreement with such place of payment for the safekeeping, investment, reinvestment, administration and disbursement of such deposit, and such deposit, when made in accordance with said statute, shall constitute the making of firm banking and financial arrangements for the discharge and full payment of the Defeased Obligations; and

WHEREAS, a Special Escrow Agreement (the “Escrow Agreement”) by and between the City and The Bank of New York Mellon Trust Company, N.A. (the “Escrow Agent”), attached hereto as **Exhibit A** and incorporated herein by reference as a part of this Resolution for all purposes, has been prepared for the deposit of funds with the Escrow Agent to provide for the full payment and discharge of the Defeased Obligations; and

WHEREAS, the City Council hereby finds and determines that the form and content of such Escrow Agreement for the payment and defeasance of the Defeased Obligations should be approved and authorization for its execution provided and the Defeased Obligations should be called for redemption in accordance with the terms hereof.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS:

Section I. The Escrow Agreement attached hereto as **Exhibit A** and incorporated herein by reference as a part of this Resolution for all purposes, is hereby approved as to form and content, and such Escrow Agreement in substantially the form and substance attached hereto.

Section II. The Defeased Obligations in the principal amount as determined by the City Manager or Director of Finance and as reflected in the finalized Escrow Agreement shall be redeemed and the same are hereby called for redemption on September 1, 2015, at the price of par and accrued interest to the date of redemption. The City Secretary is hereby authorized and directed to file a copy of this Resolution, together with a suggested form of notice of redemption to be sent to bondholders, with The Bank of New York Mellon Trust Company, N.A. (successor paying agent/registrar to The Bank of New York Trust Company, N.A.), in accordance with the redemption provisions applicable to such certificates; such suggested form of notice of redemption being attached hereto as **Exhibit B** and incorporated herein by reference as a part

of this Resolution for all purposes, provided, however, that the principal amount of the Defeased Obligations to be included within the notice of redemption shall be that principal amount so specified in the Escrow Agreement.

Section III. To provide for the full payment and discharge of the Defeased Obligations in accordance with the terms of said Special Escrow Agreement, the City Manager and/or Director of Finance are hereby authorized and directed to cause an amount sufficient to provide for the payment and defeasance of the Defeased Obligations to be deposited with the Escrow Agent from funds legally available for such purpose and to provide for the payment of necessary costs and expenses associated with such defeasance and redemption.

Section IV. The Mayor, Mayor Pro Tem, City Manager and Director of Finance, any one or more of said officials, are hereby authorized and directed to make the necessary arrangements for the purchase of the escrowed securities to be acquired and deposited in the "Escrow Fund" pursuant to the terms of the Escrow Agreement and such other arrangements as may be necessary for the deposit of moneys in accordance with the terms of the Escrow Agreement and to make firm banking and financial arrangements for the final payment and discharge of the Defeased Obligations.

Section V. The terms and conditions of the Agreement having been reviewed by the City Council of the City of Plano, Texas, and found to be acceptable and in the best interests of the City of Plano and its citizens, are hereby in all things approved.

Section VI. The City Manager or his authorized designee is hereby authorized to execute the Agreement and all other documents in connection therewith on behalf of the City of Plano, substantially according to the terms and conditions set forth in the Agreement.

Section VII. This Resolution shall become effective from and after its passage.

DULY PASSED AND APPROVED this the 14th day of October, 2013.

Harry LaRosiliere, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

SPECIAL ESCROW AGREEMENT

THIS SPECIAL ESCROW AGREEMENT (the "Agreement"), made and entered into by and between the City of Plano, Texas (the "City") and [The Bank of New York Mellon Trust Company, N.A.] (the "Bank"), a banking corporation organized and existing under the laws of the United States of America, or its successors or assigns hereunder.

W I T N E S S E T H :

WHEREAS, the City is required and has determined to provide for the final payment and discharge of the following described outstanding bonds totaling in principal amount \$_____ (hereinafter referred to as the "Defeased Obligations") more particularly described and identified as follows: "City of Plano, Texas, General Obligation Refunding and Improvement Bonds, Series 2005", dated May 15, 2005, being a portion of such bonds scheduled to mature on September 1, 2020; and

WHEREAS, in accordance with the provisions of Texas Government Code, Chapter 1207, as amended (the "Act"), and the ordinance authorizing the issuance of the Defeased Obligations, the City is authorized to deposit funds directly with the place of payment for such bonds, or other authorized depository, in an amount sufficient to provide for the full payment thereof and enter into an escrow or similar agreement with such place of payment for the safekeeping, investment, reinvestment, administration and disposition of such deposit, upon such terms and conditions as the parties may agree, provided such deposits may be invested only (i) direct noncallable obligations of the United States of America, including obligations the principal of and interest on which are unconditionally guaranteed by the United States of America, (ii) noncallable obligations of an agency or instrumentality of the United States, including obligations unconditionally guaranteed or insured by the agency or instrumentality and on the date of their acquisition or purchase by the City are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent and (iii) noncallable obligations of a state or an agency or a county, municipality, or other political subdivision of a state that have been refunded and on the date of their acquisition or purchase by the City, are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent (hereinafter called the "Escrowed Securities") that mature and/or bear interest payable at such times and in such amounts as will be sufficient to provide for the scheduled payment of the Defeased Obligations; and

WHEREAS, such deposit, if made on or before the payment date for the Defeased Obligations, shall constitute the making of firm banking and financial arrangements for their discharge and final payment and such obligations shall cease to be outstanding obligations of the City for all purposes except for being paid from the deposit of funds placed in escrow; and

WHEREAS, the Defeased Obligations are scheduled to mature and interest thereon is payable on the dates and in the manner set forth in **Exhibit A** attached hereto and incorporated herein by reference as a part of this Agreement for all purposes; and

WHEREAS, on or before the ___ day of _____, 2013, the City will cause funds to be deposited to the credit of the Escrow Fund in an amount sufficient to purchase Escrowed Securities listed and identified in **Exhibit B** attached hereto and incorporated by reference as a part of this Agreement for all purposes; and

WHEREAS, the Escrowed Securities shall be held and deposited to the credit of the "Escrow Fund" to be established and maintained by the Bank in accordance with this Agreement; and

WHEREAS, the Escrowed Securities, together with the beginning cash balance in the Escrow Fund, shall mature and the interest thereon shall be payable at such times to insure the existence of monies sufficient to pay in full the aggregate amount of the Defeased Obligations and the accrued interest thereon, as the same shall become due in accordance with the terms of the ordinance authorizing the issuance of the Defeased Obligations and as set forth in **Exhibit A** attached hereto; and

WHEREAS, the City has completed all arrangements for the purchase of the Escrowed Securities listed in **Exhibit B** and the deposit and credit of the same to the Escrow Fund as provided herein; and

WHEREAS, the Bank is a banking corporation organized and existing under the laws of the United States of America, possessing trust powers and is fully qualified and empowered to enter into this Agreement; and

WHEREAS, pursuant to a resolution, adopted on _____, 2013 (the "Resolution"), the City Council of the City approved and authorized the execution of this Agreement; and

WHEREAS, the City and the Bank, as the case may be, shall take all action necessary to call, pay, redeem and retire the Defeased Obligations in accordance with the provisions thereof, including, without limitation, all actions required by the ordinance authorizing the Defeased Obligations, the Act and this Agreement;

NOW, THEREFORE, in consideration of the mutual agreements herein contained, and to secure the payment of the principal of and the interest on the Defeased Obligations as provided in **Exhibit A** attached hereto, the City and the Bank hereby mutually undertake, promise and agree as follows:

SECTION 1: Reference to or citation herein of any provision of the ordinance pertaining to the issuance of the Defeased Obligations shall be deemed an incorporation of such provision as a part hereof in the same manner and with the same effect as if it were fully set forth herein.

SECTION 2: There is hereby created by the City with the Bank a special segregated and irrevocable trust fund designated "SPECIAL 2005 CITY OF PLANO, TEXAS, GENERAL OBLIGATION REFUNDING AND IMPROVEMENTS BOND DEFEASANCE ESCROW FUND" (hereinafter called the "Escrow Fund") for the payment of the Defeased Obligations, and the City agrees and covenants to cause to be deposited with the Bank the following:

\$ _____	For the purchase of the Escrowed Securities identified in Exhibit B to be held for the account of the Escrow Fund
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\$ _____	For deposit in the Escrow Fund as a beginning cash balance
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The Bank hereby accepts the Escrow Fund and further agrees to receive said moneys, apply the same as set forth herein, and to hold the cash and Escrowed Securities deposited and credited to the Escrow Fund for application and disbursement for the purposes and in the manner provided for in this Agreement.

SECTION 3: The City hereby represents that the cash and Escrowed Securities specified in Section 2 hereof, together with the interest to be earned thereon, deposited to the credit of the Escrow Fund will be sufficient to pay in full and in a timely manner the Defeased Obligations as shown in Exhibit A, and such Defeased Obligations shall be paid at the times and in the amounts set forth and identified in Exhibit A attached hereto.

FURTHERMORE, the Bank acknowledges receipt of a copy of the Resolution which provides for the redemption of the Defeased Obligations on September 1, 2015 at the price of par plus accrued interest to the date of redemption; all in accordance with the provisions of the notice requirements applicable to said Defeased Obligations and the notice requirements contained in the ordinance authorizing the issuance of the Defeased Obligations.

The Bank, as paying agent/registrar for the Defeased Obligations, agrees to cause a notice of redemption pertaining to such Defeased Obligations to be sent to the registered owners thereof appearing on the registration books at least thirty (30) days prior to the redemption date therefor in accordance with the ordinance authorizing the issuance of the Defeased Obligations.

All Defeased Obligations cancelled on account of payment by the Bank shall be cremated or otherwise destroyed by the Bank, and an appropriate certificate of destruction furnished to the City.

SECTION 4: The Bank agrees that all cash and Escrowed Securities, together with any income or interest earned thereon, held in the Escrow Fund shall be and is hereby irrevocably pledged to the payment of the principal of and interest on the Defeased Obligations in the amounts and timely manner shown in Exhibit A, and such funds initially deposited and to be received from maturing principal and interest on the Escrowed Securities in the Escrow Fund shall be applied solely in accordance with the provisions of this Agreement.

SECTION 5: If, for any reason, the funds on hand in the Escrow Fund shall be insufficient to make the payments set forth in Exhibit A attached hereto, as the same becomes due and payable, the City shall make timely deposits to the Escrow Fund, from lawfully available funds, of additional funds in the amounts required to make such payments. Notice of any such insufficiency shall be immediately given by the Bank to the City by the fastest means possible, but the Bank shall in no manner be responsible for the City's failure to make such deposits.

SECTION 6: The Bank shall hold said Escrowed Securities and moneys in the Escrow Fund at all times as a special and separate trust fund, wholly segregated from other moneys and securities on deposit with the Bank; shall never commingle said Escrowed Securities and moneys with other moneys or securities of the Bank; and shall hold and dispose of the assets therein only as set forth herein. Nothing herein contained shall be construed as requiring the Bank to keep the identical moneys, or any part thereof, in said Escrow Fund, if it is impractical, but moneys of an equal amount, except to the extent such are represented by the Escrowed Securities, shall always be maintained on deposit in the Escrow Fund by the Bank, as escrow agent; and a special account evidencing such facts shall at all times be maintained on the books of the Bank.

SECTION 7: The Bank shall collect and receive the principal of and interest on the Escrowed Securities as they respectively mature and become due and credit the same to the Escrow Fund. On or before each principal and/or interest payment date or redemption date, as the case may be, for the Defeased Obligations shown in Exhibit A attached hereto, the Bank, without further direction from anyone, including the City, shall cause to be withdrawn from the Escrow Fund the amounts required to pay the accrued interest due and payable on said payment date on the Defeased Obligations and the principal of the Defeased Obligations due and payable on said payment date or redemption date, as the case may be, and the amount withdrawn from the Escrow Fund shall be immediately transmitted and deposited with the paying agent for the Defeased Obligations to be paid with such amount. The paying agent for the Defeased Obligations is the Bank.

If any Defeased Obligation shall not be presented for payment when the principal amount shall have become due, and if cash shall at such times be held by the Bank in trust sufficient in amount and available to pay the principal of such Defeased Obligation, it shall be the duty of the Bank to hold said cash without any liability for additional interest thereon after such maturity date, in trust for the benefit of the party entitled to payment, which party or parties shall thereafter be restricted exclusively to said cash for any claim of whatever nature on their part on or with respect to said Defeased Obligation, including for any claim for the payment thereof. All cash required by the provisions hereof to be set aside or held in trust for the payment of the Defeased Obligations and interest thereon shall be applied to and used solely for the payment of the Defeased Obligations and accrued interest with respect to which such cash has been so set aside in trust.

Subject to the provisions of the last sentence of Section 25 hereof, cash held by the Bank in trust for the payment and discharge of any of the Defeased Obligations which remains unclaimed for a period of three (3) years after the stated maturity date of such Defeased Obligations shall be returned to the City. Notwithstanding the above and foregoing, any remittance of funds from the Bank to the City shall be subject to any applicable unclaimed property laws of the State of Texas.

SECTION 8: The escrow created hereby shall be irrevocable and an express lien shall exist on all moneys and Escrowed Securities in the Escrow Fund as security for the payment of the Defeased Obligations until such funds are paid out, used and applied in accordance with this Agreement.

SECTION 9: The Bank shall have no lien whatsoever upon any of the moneys or Escrowed Securities in the Escrow Fund for payment of services rendered hereunder, services rendered as paying agent for the Defeased Obligations, or for any costs or expenses incurred hereunder and reimbursable from the City.

SECTION 10: (a) The Bank shall be authorized to accept initially and temporarily cash and/or substituted Escrowed Securities pending the delivery of the Escrowed Securities identified in the Exhibit B attached hereto, or shall be authorized to redeem the Escrowed Securities and reinvest the proceeds thereof, together with other moneys held in the Escrow Fund in substituted Escrowed Securities provided such early redemption and reinvestment of proceeds does not change the repayment schedule for the Defeased Obligations appearing in Exhibit A and the Bank receives the following:

- (1) an opinion by an independent certified public accountant to the effect that (i) the initial and/or temporary substitution of cash and/or securities for one or

more of the Escrowed Securities identified in Exhibit B pending the receipt and delivery thereof to the Escrow Agent or (ii) the redemption of one or more of the Escrowed Securities and the reinvestment of such funds in one or more substituted Escrowed Securities, together with the interest thereon and other available moneys then held in the Escrow Fund, will, in either case, be sufficient to pay the Defeased Obligations in accordance with Exhibit A, and

(2) with respect to an early redemption of Escrowed Securities and the reinvestment of the proceeds thereof, an unqualified opinion of nationally recognized municipal bond counsel to the effect that (i) such investment will not cause interest payments with respect to the Defeased Obligations to be included in the gross income of bondholders for federal income tax purposes, under the Code and related regulations as in effect on the date of such investment, or otherwise make such interest payments subject to Federal income taxation and (ii) such reinvestment complies with the Constitution and laws of the State of Texas and with all relevant documents relating to the issuance of the Defeased Obligations.

(b) If on the date and in the amount shown in Exhibit C attached hereto there exists cash in the Escrow Fund, the Bank and the City agree at least fifteen (15) days prior to such date, to subscribe for the purchase of United States Treasury Securities - State and Local Government Series (SLGS) bearing zero interest (0%) and on such date, in the amount and scheduled to mature as provided in Exhibit C and subscription forms prepared therefor as may be then required by the United States Department of the Treasury; provided that the then existing rules and regulations and policy of United States Department of the Treasury permit and authorize such investments. Should the policy, rules and regulations of the United States Department of Treasury not permit or authorize the purchase of such SLGS at such time or times, such cash balance or balances shall remain uninvested and held in trust for the benefit of the holders of the Defeased Obligations and used for the payment of the Defeased Obligations on the dates and in the amount such moneys would have been expended had such SLGS been acquired and matured.

SECTION 11: Except as provided in Section 10 hereof, moneys in the Escrow Fund will be invested only in the Escrowed Securities listed in Exhibit B, and neither the City nor the Bank shall reinvest any moneys deposited in the Escrow Fund except as specifically provided by this Agreement.

SECTION 12: If at any time there exists or it is determined an excess of interest on or maturing principal of the Escrowed Securities in excess of the aggregate amounts needed for the payment of the Defeased Obligations, the Bank may transfer such excess amount to or on the order of the City.

SECTION 13: The Bank shall continuously secure the monies in the Escrow Fund not invested in Escrowed Securities by a pledge of direct obligations of the United States of America, in the par or face amount at least equal to the principal amount of said uninvested monies to the extent such money is not insured by the Federal Deposit Insurance Corporation.

SECTION 14: The Bank shall not be liable or responsible for any loss resulting from any investment made in the Escrowed Securities.

SECTION 15: The funds and Escrowed Securities received by the Bank under this Agreement shall not be considered as a banking deposit by the City and the Bank and the City shall have no right or title with respect thereto, except as otherwise provided herein. Such funds and Escrowed Securities shall not be subject to checks or drafts drawn by the City.

SECTION 16: The City agrees to pay the Bank for the performance of services hereunder and as reimbursement for anticipated expenses to be incurred hereunder the amount of \$_____ and, except for reimbursement of costs and expenses incurred by the Bank pursuant to Section 19 hereof, the Bank hereby agrees said amount is full and complete payment for the administration of this Agreement.

The City also agrees to deposit with the Bank on the effective date of this Agreement, the sum of \$_____, which represents the total charges due the Bank as paying agent for the Defeased Obligations.

SECTION 17: The Bank shall not be responsible for any recital herein, except with respect to its organization and its powers and authority. As to the existence or nonexistence of any fact relating to the City or as to the sufficiency or validity of any instrument, paper or proceedings relating to the City, the Bank shall be entitled to rely upon a certificate signed on behalf of the City by its City Secretary as sufficient evidence of the facts therein contained. The Bank may accept a certificate of the City Secretary under the City's seal, to the effect that a resolution or other instrument in the form therein set forth has been adopted by the City Council of the City, as conclusive evidence that such resolution or other instrument has been duly adopted and is in full force and effect.

The duties and obligations of the Bank shall be determined solely by the express provisions of this Agreement and the Bank shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Agreement, and no implied covenants or obligations shall be read into this Agreement against the Bank.

In the absence of bad faith on the part of the Bank, the Bank may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any certificate or opinion furnished to the Bank, conforming to the requirements of this Agreement; but notwithstanding any provision of this Agreement to the contrary, in the case of any such certificate or opinion or any evidence which by any provision hereof is specifically required to be furnished to the Bank, the Bank shall be under a duty to examine the same to determine whether it conforms to the requirements of this Agreement.

The Bank shall not be liable for any error of judgment made in good faith by a Responsible Officer or Officers of the Bank unless it shall be proved that the Bank was negligent in ascertaining or acting upon the pertinent facts.

The Bank shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the holders of not less than a majority in aggregate principal amount of all said Defeased Obligations at the time outstanding relating to the time, method and place of conducting any proceeding for any remedy available to the Bank not in conflict with the intent and purpose of this Agreement. For the purposes of determining whether the holders of the required principal amount of said Defeased Obligations have concurred in any such direction, Defeased Obligations owned by any obligor upon the Defeased Obligations, or by any person directly or indirectly controlling or controlled by or under direct or indirect common control with such obligor, shall be disregarded, except that for the purposes of

determining whether the Bank shall be protected in relying on any such direction only Defeased Obligations which the Bank knows are so owned shall be so disregarded.

The term "Responsible Officers" of the Bank, as used in this Agreement, shall mean and include the Chairman of the Board of Directors, the President, any Vice President and any Second Vice President, the Secretary and any Assistant Secretary, the Treasurer and any Assistant Treasurer, and every other officer and assistant officer of the Bank customarily performing functions similar to those performed by the persons who at the time shall be officers, respectively, or to whom any corporate trust matter is referred, because of his knowledge of and familiarity with a particular subject; and the term "Responsible Officer" of the Bank, as used in this Agreement, shall mean and include any of said officers or persons.

SECTION 18: Time shall be of the essence in the performance of obligations from time to time imposed upon the Bank by this Agreement.

SECTION 19: In the event conflicting demands or notices are made upon the Bank growing out of or relating to this Agreement or the Bank in good faith is in doubt as to what action should be taken hereunder, the Bank shall have the right at its election to:

(a) Withhold and stop all further proceedings in, and performance of, this Agreement with respect to the issue in question and of all instructions received hereunder in regard to such issue; and

(b) File a suit in interpleader and obtain an order from a court of appropriate jurisdiction in the State of Texas requiring all persons involved to interplead and litigate in such court their several claims and rights among themselves.

In the event the Bank becomes involved in litigation in connection with this Section, the City to the extent permitted by law agrees to indemnify and save the Bank harmless from all loss, cost, damages, expenses and attorney fees suffered or incurred by the Bank as a result thereof. The obligations of the Bank under this Agreement shall be performable at the principal corporate office of the Bank in the City of Dallas, Texas.

The Bank may advise with legal counsel in the event of any dispute or question regarding the construction of any of the provisions hereof or its duties hereunder, and in the absence of negligence or bad faith on the part of the Bank, no liability shall be incurred by the Bank for any action taken pursuant to this Section and the Bank shall be fully protected in acting in accordance with the opinion and instructions of legal counsel that is knowledgeable and has expertise in the field of law addressed in any such legal opinion or with respect to the instructions given.

SECTION 20: On or before June 30, 2014, and on or before each June 30 that follows for so long as the Escrow Fund is maintained under this Agreement, the Bank shall forward to the City, to the attention of the Director of Finance, or other designated official of the City, a statement in detail of the Escrowed Securities and monies held, and the current income and maturities thereof, and the withdrawals of money, if any, from the Escrow Fund for the previous reporting period.

SECTION 21: Any notice, authorization, request or demand required or permitted to be given hereunder shall be in writing and shall be deemed to have been duly given when mailed by registered or certified mail, postage prepaid addressed as follows:

CITY OF PLANO, TEXAS
P. O. Box 860358
Plano, Texas 75086
Attention: Director of Finance

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.
2001 Bryan Street, 11th Floor
Dallas, Texas 75201
Attention: Issuer Administrative Services

The United States Post Office registered or certified mail receipt showing delivery of the aforesaid shall be conclusive evidence of the date and fact of delivery.

Any party hereto may change the address to which notices are to be delivered by giving to the other parties not less than ten (10) days prior notice thereof.

SECTION 22: Whenever under the terms of this Agreement the performance date of any provision hereof, including the payment dates for the Defeased Obligations shown in Exhibit A, shall be a Sunday or a legal holiday or a day when the Bank is authorized by law to close, then the performance thereof need not be made on such date but may be performed or paid, as the case may be, on the next succeeding business day of the Bank with the same force and effect as if made on the date of performance or payment and with respect to a payment, no interest shall accrue for the period after such date.

SECTION 23: The City covenants that it will faithfully perform at all times any and all covenants, undertakings, stipulations and provisions contained in this Agreement, in any and every said Defeased Obligation as executed, authenticated and delivered and in all proceedings pertaining thereto as said Defeased Obligations shall have been modified as provided in this Agreement. The City covenants that it is duly authorized under the Constitution and laws of the State of Texas to execute and deliver this Agreement, that all actions on its part for the payment of said Defeased Obligations as provided herein and the execution and delivery of this Agreement have been duly and effectively taken.

SECTION 24: If any one or more of the covenants or agreements provided in this Agreement on the part of the parties to be performed should be determined by a court of competent jurisdiction to be contrary to law, such covenant or agreement shall be deemed and construed to be severable from the remaining covenants and agreements herein contained and shall in no way affect the validity of the remaining provisions of this Agreement. In the event any covenant or agreement contained in this Agreement is declared to be severable from the other provisions of this Agreement, written notice of such event shall immediately be given to each national rating service (Moody's Investors Service ["Moody's"], Standard & Poor's Ratings Services, a Standard & Poor's Financial Services LLC business ["S&P"] or Fitch Investors Service ["Fitch"]) which has rated the Defeased Obligations on the basis of this Agreement.

SECTION 25: This Agreement shall terminate when the Defeased Obligations have been paid in full in accordance with the provisions of this Agreement. If any Defeased Obligation is not paid when due because of failure to satisfy a condition for payment such as

surrender and presentation to the paying agent, the nonpayment thereof shall not prevent the termination of this Agreement. Funds for the payment of such Defeased Obligations shall be held by the Bank for such purpose in accordance with Section 7 hereof. Any moneys or Escrowed Securities held in the Escrow Fund at termination and not needed for the payment of the Defeased Obligations shall be paid or transferred to the City.

SECTION 26: (a) Should the Bank not be able to legally serve or perform the duties and obligations under this Agreement, or should the Bank be declared to be insolvent or closed for any reason by federal or state regulatory authorities or a court of competent jurisdiction, the City, upon being notified or discovering the Bank's inability or disqualification to serve hereunder, shall forthwith appoint a successor to replace the Bank, and upon being notified of such appointment, the Bank shall (i) transfer all funds and securities held hereunder, together with all books, records and accounts relating to the Escrow Fund and the Defeased Obligations, to such successor and (ii) assign all rights, duties and obligations under this Agreement to such successor. If the City should fail to appoint such a successor within ninety (90) days from the date the City discovers, or is notified of, the event or circumstance causing the Bank's inability or disqualification to serve hereunder, the Bank, or a bondholder of the Defeased Obligations, may apply to a court of competent jurisdiction to appoint a successor or assigns of the Bank and such court, upon determining the Bank is unable to continue to serve, shall appoint a successor to serve under this Agreement and the amount of compensation, if any, to be paid to such successor for the remainder of the term of this Agreement for services to be rendered both for administering the Escrow Fund and for paying agent duties and responsibilities for the Defeased Obligations.

(b) Furthermore, the Bank may resign and be discharged from performing its duties and responsibilities under this Agreement upon notifying the City in writing of its intention to resign and requesting the City to appoint a successor. No such resignation shall take effect until a successor has been appointed by the City and such successor has accepted such appointment and agreed to perform all duties and obligations hereunder for a total compensation equal to the unearned proportional amount paid the Bank under Section 16 hereof for the administration of this Agreement and the unearned proportional amount of the paying agents fees for the Defeased Obligations due the Bank.

Any successor to the Bank shall be a bank, trust company or other financial institution authorized and empowered to perform the duties and obligations contemplated by this Agreement and organized and doing business under the laws of the United States or the State of Texas, having its principal office and place of business in the State of Texas, having a combined capital and surplus of at least \$50,000,000 and be subject to the supervision or examination by Federal or State authority.

Any successor or assigns to the Bank shall execute, acknowledge and deliver to the City and the Bank, or its successor or assigns, an instrument accepting such appointment hereunder, and the Bank shall execute and deliver an instrument transferring to such successor, subject to the terms of this Agreement, all the rights, powers and trusts created and established and to be performed under this Agreement. Upon the request of any such successor Bank, the City shall execute any and all instruments in writing for more fully and certainly vesting in and confirming to such successor Bank all such rights, powers and duties. The term "Bank" as used herein shall be the Bank and its legal assigns and successor hereunder.

SECTION 27: The Bank shall not be responsible or liable to any person in any manner whatever for the sufficiency, correctness, genuineness, effectiveness, or validity of this

Agreement with respect to the City, or for the identity or authority of any person making or executing this Agreement on behalf of the City. The Bank is authorized by the City to rely upon the representations of the City with respect to this Agreement and the deposits made pursuant hereto and as to the City's right and power to execute and deliver this Agreement, and the Bank shall not be liable in any manner as a result of such reliance. The duty of the Bank hereunder shall only be to the City and the holders of the Defeased Obligations. Neither the City nor the Bank shall assign or attempt to assign or transfer any interest hereunder or any portion of any such interest. Any such assignment or attempted assignment shall be in direct conflict with this Agreement and be without effect.

SECTION 28: This Agreement shall be binding upon the City and the Bank and their respective successors and legal representatives and shall inure solely to the benefit of the holders of the Defeased Obligations, the City, the Bank and their respective successors and legal representatives. Furthermore, no alteration, amendment or modification of any provision of this Agreement (1) shall alter the firm financial arrangements made for the payment of the Defeased Obligations or (2) shall be effective unless (i) prior written consent of such alteration, amendment or modification shall have been obtained from the holders of all Defeased Obligations outstanding at the time of such alteration, amendment or modification and (ii) such alteration, amendment or modification is in writing and signed by the parties hereto; provided, however, the City and the Bank may, without the consent of either the holders of the Defeased Obligations, amend or modify the terms and provisions of this Agreement to cure any ambiguity, formal defect or omission in this Agreement. If the parties hereto agree to any amendment or modification to this Agreement, prior written notice of such amendment or proposed modification, together with the legal documents amending or modifying this Agreement, shall be furnished to each national rating service (Moody's Investors Service ["Moody's"], Standard & Poor's Ratings Services, a Standard & Poor's Financial Services LLC business ["S&P"] or Fitch Investors Service ["Fitch"]) which has rated the Defeased Obligations on the basis of this Agreement.

SECTION 29: This Agreement may be executed in several counterparts, all or any of which shall be regarded for all purposes as one original and shall constitute and be but one and the same instrument.

SECTION 30: This Agreement shall be governed by the laws of the State of Texas.

This agreement shall be effective upon the last date on which all parties have executed this agreement.

CITY OF PLANO, TEXAS, a home-rule
municipal corporation

Date: _____

By: _____
Bruce D. Glasscock, City Manager

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

Date: _____

THE BANK OF NEW YORK MELLON TRUST
COMPANY, N.A., as Escrow Agent

By: _____
Name: _____
Title: _____

ACKNOWLEDGMENTS

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

This instrument was acknowledged before me on the _____ day of _____, 20____ by **BRUCE D. GLASSCOCK**, City Manager of the **CITY OF PLANO, TEXAS**, a home-rule municipal corporation, on behalf of said corporation.

Notary Public, State of Texas

STATE OF _____ §
 §
COUNTY OF _____ §

This instrument was acknowledged before me on the ____ day of _____, 20____ by _____, (*Authorized Representative*) _____ (*Title*) of **THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.**, a banking corporation organized and existing under the laws of the United States of America, on behalf of said banking corporation.

Notary Public, State of _____

EXHIBIT A
DEBT SERVICE REQUIREMENTS OF DEFEASED OBLIGATIONS

EXHIBIT B
LIST OF ESCROWED SECURITIES FOR ESCROW FUND

EXHIBIT C
ZERO INVESTMENTS

NOTICE OF REDEMPTION

CITY OF PLANO, TEXAS
GENERAL OBLIGATION REFUNDING AND IMPROVEMENT BONDS
SERIES 2005
Dated May 15, 2005

NOTICE IS HEREBY GIVEN that a portion of the bonds of the above series maturing on September 1, 2020 and aggregating in principal amount \$_____ have been called for redemption on September 1, 2015 at the redemption price of par and accrued interest to the date of redemption, such bonds being identified as follows:

<u>Year of Maturity</u>	<u>Outstanding Principal Amount (\$)</u>	<u>Principal Amount Being Refunded (\$)</u>	<u>CUSIP Number</u>
2020	3,245,000		

ALL SUCH BONDS shall become due and payable on September 1, 2015, and interest thereon shall cease to accrue from and after said redemption date and payment of the redemption price of said obligations shall be paid to the registered owners thereof only upon presentation and surrender of such obligations to The Bank of New York Mellon Trust Company, N.A. (successor paying agent/registrars to The Bank of New York Trust Company, N.A.) at its designated offices at the following addresses:

<u>First Class/Registered/Certified</u>	<u>Express Delivery/Courier</u>	<u>By Hand Only</u>
The Bank of New York Mellon Trust Company, N.A. Global Corporate Trust P.O. Box 396 East Syracuse, NY 13057	The Bank of New York Mellon Trust Company, N.A. Global Corporate Trust 111 Sanders Creek Pkwy. East Syracuse, NY 13057	The Bank of New York Mellon Trust Company, N.A. Global Corporate Trust Corporate Trust Window 101 Barclay Street, 1st Floor East New York, NY 10286

THIS NOTICE is issued and given pursuant to the terms and conditions prescribed for the redemption of said bonds and pursuant to a resolution by the City Council of the City of Plano, Texas.

THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A.
2001 Bryan Street, 11th Floor
Dallas, Texas 75201