

COUNCIL COMMUNICATION

Manager's Recommendation: Approval of the resolution as follows:

AUTHORIZING ISSUANCE OF GENERAL OBLIGATION LIMITED TAX BONDS, SERIES 2010

WHEREAS, the City Council of the City of Saginaw (the "City") has determined to undertake capital improvements to the City's wastewater treatment plant (the "Project"); and

WHEREAS, the City is authorized to issue bonds under Section 517 of Act 34, Public Acts of Michigan, 2001, as amended ("Act 34"), and use the proceeds of the sale of such bonds to pay all or part of the cost of capital improvement items such as the Project; and

WHEREAS, the City has determined that it is in the best interest of the City to issue bonds under Section 517 of Act 34 for the purpose of paying all or part of the cost of the Project and to sell the bonds in a private negotiated sale to the Michigan Municipal Bond Authority (the "MMBA") as authorized by Act 227, Public Acts of Michigan, 1985, as amended ("Act 227"), in order to enable the MMBA to provide assistance with respect to the Project from the proceeds of the State Water Pollution Control Revolving Fund.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAGINAW, MICHIGAN, as follows:

1. **AUTHORIZATION OF BONDS - PURPOSE.** Bonds of the City aggregating the principal sum of not to exceed Four Million Five Hundred Thousand Dollars (\$4,500,000) shall be issued and sold for the purpose of defraying all or part of the cost of the Project.

2. **BOND DETAILS.** The bonds shall be designated "General Obligation Limited Tax Bonds, Series 2010"; shall be dated as of such date as approved by the Mayor at the time of sale; shall be numbered from 1 upwards; shall be fully registered; shall be in the denomination of \$5,000 each or any integral multiple thereof not

exceeding the aggregate principal amount for each maturity at the option of the purchaser thereof (provided, however, that so long as the bonds are registered in the name of the MMBA, the bonds may be in the form of a single bond in the denomination of \$4,500,000, or such lower amount as shall be approved by the Mayor at the time of sale, with an exhibit attached thereto which identifies the annual maturities for the bonds, and the references herein to “bonds” shall mean that single bond registered in the name of the MMBA); shall bear interest at a rate that shall not exceed 2.5% per annum from the date of delivery of the various principal installments as hereinafter described, payable on such dates as shall be determined by the Mayor at the time of sale; and shall mature on such dates and in such years as shall be determined by the Mayor at the time of sale.

The bonds are expected to be delivered to the MMBA as the initial purchaser thereof in installments (the “Installments”) equal to the amounts advanced from time to time by the MMBA to the City pursuant to the Purchase Contract and the Supplemental Agreement (each as hereinafter defined).

3. PAYMENT OF PRINCIPAL AND INTEREST. The principal of and interest on the bonds shall be payable in lawful money of the United States. So long as the bonds are registered in the name of the MMBA, the bonds are payable as to principal, redemption premium, if any, and interest at The Bank of New York Mellon Trust Company, N. A., Detroit, Michigan, or at such other place as shall be designated in writing to the City by the MMBA (the “MMBA’s Depository”). So long as the MMBA is the owner of the bonds, the City agrees that it will deposit with the MMBA’s Depository payments of the principal of, premium, if any, and interest on the bonds in immediately available funds at least five business days prior to the date on which any such payment is due, whether by maturity, redemption or otherwise. If the bonds are not registered in the name of the MMBA, the principal of and premium, if any, on the bonds are payable

upon surrender thereof at the office of the bond registrar and paying agent and the interest is payable by check or draft mailed by the bond registrar and paying agent to the registered owner of the bonds at the address appearing on the registration books of the City kept by the bond registrar and paying agent as of the 15th day of the month preceding the month in which an interest payment is due.

4. PRIOR REDEMPTION. The bonds shall be subject to redemption prior to maturity only with the prior written consent of the MMBA and on such terms and conditions as may be required by the MMBA.

5. BOND REGISTRAR AND PAYING AGENT. Until a successor is appointed by the City Council, the City Treasurer shall act as bond registrar and paying agent for the bonds.

6. EXECUTION, AUTHENTICATION AND DELIVERY OF BONDS. The bonds shall be executed in the name of the City by the manual or facsimile signatures of the Mayor and the City Clerk and authenticated by the manual signature of an authorized representative of the bond registrar and paying agent, and the seal of the City (or a facsimile thereof) shall be impressed or imprinted on the bonds. After the bonds have been executed and authenticated for delivery to the original purchaser thereof, they shall be delivered by the City Treasurer to the purchaser upon receipt of the purchase price. Additional bonds bearing the facsimile signatures of the Mayor and the City Clerk and upon which the seal of the City (or a facsimile thereof) is impressed or imprinted may be delivered to the bond registrar and paying agent for authentication and delivery in connection with the exchange or transfer of bonds. The bond registrar and paying agent shall indicate on each bond the date of its authentication.

7. EXCHANGE AND TRANSFER OF BONDS. Any bond, upon surrender thereof to the bond registrar and paying agent with a written instrument of transfer satisfactory to the bond registrar and paying agent duly executed by the registered

owner or his duly authorized attorney, at the option of the registered owner thereof, may be exchanged for bonds of any other authorized denominations of the same aggregate principal amount and maturity date and bearing the same rate of interest as the surrendered bond.

Each bond shall be transferable only upon the books of the City, which shall be kept for that purpose by the bond registrar and paying agent, upon surrender of such bond together with a written instrument of transfer satisfactory to the bond registrar and paying agent duly executed by the registered owner or his duly authorized attorney.

Upon the exchange or transfer of any bond, the bond registrar and paying agent on behalf of the City shall cancel the surrendered bond and shall authenticate and deliver to the transferee a new bond or bonds of any authorized denomination of the same aggregate principal amount and maturity date and bearing the same rate of interest as the surrendered bond. If, at the time the bond registrar and paying agent authenticates and delivers a new bond pursuant to this section, payment of interest on the bonds is in default, the bond registrar and paying agent shall endorse upon the new bond the following: "Payment of interest on this bond is in default. The last date to which interest has been paid is _____."

The City and the bond registrar and paying agent may deem and treat the person in whose name any bond shall be registered upon the books of the City as the absolute owner of such bond, whether such bond shall be overdue or not, for the purpose of receiving payment of the principal of and interest on such bond and for all other purposes, and all payments made to any such registered owner, or upon his order, in accordance with the provisions of Section 3 of this Bond Resolution shall be valid and effectual to satisfy and discharge the liability upon such bond to the extent of the sum or sums so paid, and neither the City nor the bond registrar and paying agent shall be affected by any notice to the contrary. The City agrees to indemnify and save the bond

registrar and paying agent harmless from and against any and all loss, cost, charge, expense, judgment or liability incurred by it, acting in good faith and without negligence hereunder, in so treating such registered owner.

For every exchange or transfer of bonds, the City or the bond registrar and paying agent may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer, which sum or sums shall be paid by the person requesting such exchange or transfer as a condition precedent to the exercise of the privilege of making such exchange or transfer.

The bond registrar and paying agent shall not be required to transfer or exchange bonds or portions of bonds which have been selected for redemption.

8. FORM OF BONDS. The bonds shall be in substantially the following form:

UNITED STATES OF AMERICA
STATE OF MICHIGAN
COUNTY OF SAGINAW
CITY OF SAGINAW
GENERAL OBLIGATION LIMITED TAX BOND
SERIES 2007

INTEREST RATE MATURITY DATE DATE OF ORIGINAL ISSUE

See Exhibit A

Registered Owner:

Principal Amount:

The City of Saginaw, County of Saginaw, State of Michigan (the "City"), acknowledges itself indebted to, and for value received, hereby promises to pay to the Registered Owner identified above, or registered assigns, the Principal Amount set forth above or so much thereof as shall have been advanced to the City pursuant to a Purchase Contract between the City and the Michigan Municipal Bond Authority (the "MMBA") and a Supplemental Agreement by and among the City, the MMBA and the State of Michigan acting through the Department of Environmental Quality on the maturity dates and in the amounts set forth on Exhibit A attached hereto unless redeemed prior thereto as hereinafter provided, the final payment to be made upon presentation and surrender of this bond at the office of the City Treasurer, Saginaw, Michigan, the bond registrar and paying agent, or at such successor bond registrar and paying agent as may be designated pursuant to the Resolution identified below, and to pay to the Registered Owner at the close of business on the 15th day of the calendar month preceding the month in which an interest payment is due, by check or draft drawn upon and mailed by the bond registrar and paying agent by first class mail postage prepaid to the Registered Owner at the registered address, interest on such Principal Amount, to the extent advanced to the City pursuant to the Purchase Contract and the Supplemental Agreement until the City's obligation with respect to the payment of such Principal Amount is discharged, at the rate per annum specified above. Interest is payable on the first days of April and October in each year, commencing on _____. Principal and interest are payable in lawful money of the United States of America.

In the event of a default in the payment of principal or interest hereon when due, whether at maturity, by redemption or otherwise, the amount of such default shall bear interest (the "additional interest") at a rate equal to the rate of interest which is two percent above the MMBA's cost of providing funds (as determined by the MMBA) to make payment on the bonds of the MMBA issued to provide funds to purchase this

bond but in no event in excess of the maximum rate of interest permitted by law. The additional interest shall continue to accrue until the MMBA has been fully reimbursed for all costs incurred by the MMBA (as determined by the MMBA) as a consequence of the City's default. Such additional interest shall be payable on the interest payment date following demand of the MMBA. In the event that (for reasons other than the default in the payment of any municipal obligation purchased by the MMBA) the investment of amounts in the reserve account established by the MMBA for the bonds of the MMBA issued to provide funds to purchase this bond fails to provide sufficient available funds (together with any other funds which may be made available for such purpose) to pay the interest on outstanding bonds of the MMBA issued to fund such account, the City shall and hereby agrees to pay on demand only the City's pro rata share (as determined by the MMBA) of such deficiency as additional interest on this bond.

During the time funds are being drawn down by the City under this bond, the MMBA periodically will provide the City a statement showing the amount of principal that has been advanced and the date of each advance, which statement shall constitute prima facie evidence of the reported information; provided that no failure on the part of the MMBA to provide such a statement or to reflect a disbursement or the correct amount of a disbursement shall relieve the City of its obligation to repay the outstanding principal amount actually advanced, all accrued interest thereon, and any other amount payable with respect thereto in accordance with the terms of this bond.

This bond is one of a series of bonds aggregating the principal sum of _____ Dollars (\$_____) issued by the City under and pursuant to and in full conformity with the Constitution and Statutes of Michigan (especially Act 34, Public Acts of 2001, as amended), the Charter of the City and a bond authorizing resolution adopted by the City Council of the City (the "Resolution") to defray all or part of the costs of making capital improvements to the City's wastewater treatment plant consisting of raw sewage pumping station improvements and related improvements. The full faith and credit of the City have been pledged to the prompt payment of the principal of and interest on this bond. The principal of and interest on the bonds of this series are payable as a first budget obligation of the City from its general funds. The ability of the City to raise such funds is subject to applicable constitutional, statutory and charter limitations on the taxing power of the City.

This bond is transferable, as provided in the Resolution, only upon the books of the City kept for that purpose by the bond registrar and paying agent, upon the surrender of this bond together with a written instrument of transfer satisfactory to the bond registrar and paying agent duly executed by the Registered Owner or his attorney duly authorized in writing. Upon the exchange or transfer of this bond a new bond or bonds of any authorized denomination, in the same aggregate principal amount and of the same interest rate and maturity, shall be authenticated and delivered to the transferee in exchange therefor as provided in the Resolution, and upon payment of the charges, if any, therein provided. Bonds so authenticated and delivered shall be in the

denomination of \$5,000 or any integral multiple thereof not exceeding the aggregate principal amount for each maturity.

The bond registrar and paying agent shall not be required to transfer or exchange bonds or portions of bonds which have been selected for redemption.

This bond is subject to redemption prior to maturity at the option of the City only with the prior written consent of the MMBA and upon such terms as may be required by the MMBA. That portion of this bond called for redemption shall not bear interest after the date fixed for redemption, provided funds are on hand with the bond registrar and paying agent to redeem the same.

Notwithstanding any other provision of this bond, so long as the MMBA is the owner of this bond, (a) this bond is payable as to principal, premium, if any, and interest at The Bank of New York Trust Company, N. A., Detroit, Michigan or at such other place as shall be designated in writing to the City by the MMBA (the "MMBA's Depository"); (b) the City agrees that it will deposit with the MMBA's Depository payments of the principal of, premium, if any, and interest on this bond in immediately available funds by 12:00 noon at least five business days prior to the date on which any such payment is due whether by maturity, redemption or otherwise; in the event that the MMBA's Depository has not received the City's deposit by 12:00 noon on the scheduled day, the City shall immediately pay to the MMBA as invoiced by the MMBA an amount to recover the MMBA's administrative costs and lost investment earnings attributable to that late payment; and (c) written notice of any redemption of this bond shall be given by the City and received by the MMBA's Depository at least 40 days prior to the date on which redemption is to be made.

It is hereby certified, recited and declared that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of the bonds of this series, existed, have happened and have been performed in due time, form and manner as required by law, and that the total indebtedness of the City, including the series of bonds of which this bond is one, does not exceed any constitutional, statutory or charter limitation.

IN WITNESS WHEREOF, the City of Saginaw, Saginaw County, Michigan, by its City Council, has caused this bond to be executed in its name by the manual or facsimile signatures of the Mayor and the City Clerk and its corporate seal (or a facsimile thereof) to be impressed or imprinted hereon. This bond shall not be valid unless the Certificate of Authentication has been manually executed by an authorized representative of the bond registrar and paying agent.

CITY OF SAGINAW

(SEAL)

By: _____
City Clerk

By: _____
Mayor

CERTIFICATE OF AUTHENTICATION

This bond is one of the bonds described in the within mentioned Resolution.

Treasurer, City of Saginaw
Bond Registrar and Paying Agent

AUTHENTICATION DATE:

ASSIGNMENT

For value received, the undersigned hereby sells, assigns and transfers unto

(please print or type name, address and taxpayer identification number of transferee)
the within bond and all rights thereunder and does hereby irrevocably constitute and
appoint _____

_____ attorney to transfer the within bond on the books kept for registration thereof, with full
power of substitution in the premises.

Dated: _____

Signature Guaranteed

Signature(s) must be guaranteed by an eligible guarantor institution participating
in a Securities Transfer Association recognized signature guarantee program.

EXHIBIT A

Based on the schedule provided below unless revised as provided in this paragraph, repayment of principal of the bond to which this Exhibit A is attached (the "Bond") shall be made until the full amount advanced to the City is repaid. In the event the Order of Approval issued by the Department of Environmental Quality (the "Order") approves a principal amount of assistance less than the amount of the Bond delivered to the Authority, the Authority shall only disburse principal up to the amount stated in the Order. In the event (1) that the payment schedule approved by the City and described below provides for payment of a total principal amount greater than the amount of assistance approved by the Order or (2) that less than the principal amount of assistance approved by the Order is disbursed to the City by the Authority, the Authority shall prepare a new payment schedule which shall be effective upon receipt by the City.

The principal amounts and maturity dates applicable to the bond to which this Exhibit A is attached are as follows:

MATURITY
DATE

PRINCIPAL
MATURITY

END OF BOND FORM

9. SECURITY. The bonds shall be limited tax general obligations of the City. The full faith and credit of the City are pledged for the prompt payment of the principal of and interest on the bonds as the same shall become due. Each year the City shall include in its budget as a first budget obligation an amount sufficient to pay such principal and interest as the same shall become due. The ability of the City to raise funds to pay such amounts is subject to applicable constitutional, statutory and charter limitations on the taxing power of the City.

10. DEFEASANCE. In the event cash or direct obligations of the United States or obligations the principal of and interest on which are guaranteed by the United States, or a combination thereof, the principal of and interest on which, without reinvestment, come due at times and in amounts sufficient to pay, at maturity or irrevocable call for earlier optional redemption, the principal of, premium, if any, and interest on the bonds, or any portion thereof, shall have been deposited in trust, this Bond Resolution shall be defeased with respect to such bonds, and the owners of the bonds shall have no further rights under this Bond Resolution except to receive payment of the principal of, premium, if any, and interest on such bonds from the cash or securities deposited in trust and the interest and gains thereon and to transfer and exchange bonds as provided herein.

11. PRINCIPAL AND INTEREST FUND. There shall be established for the bonds a Principal and Interest Fund which shall be kept in a separate bank account. From the proceeds of the sale of the bonds there shall be set aside in the Principal and Interest Fund any premium and accrued interest received from the purchaser of the bonds at the time of delivery of the same. All payments made by the City pursuant to Section 9 of this Bond Resolution are pledged for payment of the principal of and interest on the bonds and as made shall be placed in the Principal and Interest Fund.

12. CONSTRUCTION FUND. The remainder of the proceeds of the sale of the bonds shall be set aside in a construction fund for the Project and used to acquire and construct the Project.

13. ESTIMATES OF PERIOD OF USEFULNESS AND COST. The estimates of \$5,452,375 as the cost of the Project and of 20 years and upwards as the period of usefulness thereof, as submitted to this City Council, are approved and adopted.

14. APPROVAL OF MICHIGAN DEPARTMENT OF TREASURY. The issuance and sale of the bonds is subject to approval being granted therefor by the Department of Treasury of the State of Michigan in accordance with Act 34, and, if necessary, the City Manager or City Clerk is authorized and directed to file an application with the Department of Treasury for permission to issue and sell the bonds as provided in Act 34.

15. SALE, ISSUANCE, DELIVERY, TRANSFER AND EXCHANGE OF BONDS.

The bonds shall be sold at a private, negotiated sale to the MMBA, as authorized by Act 227. The sale shall be made pursuant to the terms and conditions to be set forth in a Purchase Contract (the "Purchase Contract") and a Supplemental Agreement (the "Supplemental Agreement") and the Mayor and/or the City Clerk are each authorized to execute and deliver the Purchase Contract and the Supplemental Agreement in such form as shall be approved by the Mayor at the time of sale. In addition, the Mayor, the City Clerk and the City Treasurer and other City employees and officials are authorized to execute and deliver to the MMBA an Issuer's Certificate and such other certificates or documents as the MMBA or bond counsel shall require and to do all other things necessary to effectuate the sale, issuance, delivery, transfer and exchange of the bonds in accordance with the provisions of this Bond Resolution.

16. REPLACEMENT OF BONDS. Upon receipt by the City Clerk of proof of ownership of an unmatured bond, of satisfactory evidence that the bond has been lost, apparently destroyed or wrongfully taken and of security or indemnity which complies with applicable law and is satisfactory to the City Clerk, the City Clerk may authorize the bond registrar and paying agent to deliver a new executed bond to replace the bond lost, apparently destroyed or wrongfully taken in compliance with applicable law. In the event an outstanding matured bond is lost, apparently destroyed or wrongfully taken, the City Clerk may authorize the bond registrar and paying agent to pay the bond without presentation upon the receipt of the same documentation required for the delivery of a replacement bond. The bond registrar and paying agent, for each new bond delivered or paid without presentation as provided above, shall require the payment of expenses, including counsel fees, which may be incurred by the bond registrar and paying agent and the City in the premises. Any bond delivered pursuant the provisions of this Section 16 in lieu of any bond lost, apparently destroyed or wrongfully taken shall be of the same form and tenor and be secured in the same manner as the bond in substitution for which such bond was delivered.

17. TAX COVENANT. The City covenants to comply with all requirements of the Internal Revenue Code of 1986, as amended, necessary to assure that the interest on the bonds will be and will remain excludable from gross income for federal income tax purposes. The Mayor, the City Clerk, the City Treasurer and other appropriate City officials are authorized to do all things necessary to assure that the interest on the bonds will be and will remain excludable from gross income for federal income tax purposes.

18. CONFLICTING RESOLUTIONS. All resolutions and parts of resolutions insofar as they may be in conflict herewith are hereby rescinded.