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FIRST SUPPLEMENTAL INDENTURE OF TRUST

Dated as of May \_\_, 2009

Between

CITY OF RACINE, WISCONSIN

and

WELLS FARGO BANK, NATIONAL ASSOCIATION,  
as Trustee

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Supplementing and amending that certain Indenture of Trust  
dated as of March 1, 2004

Variable/Fixed Rate Demand Solid Waste Disposal Refunding Revenue Bonds  
(Republic Services, Inc. Project)  
Series 2004

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**FIRST SUPPLEMENTAL INDENTURE OF TRUST**

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## FIRST SUPPLEMENTAL INDENTURE OF TRUST

THIS FIRST SUPPLEMENTAL INDENTURE OF TRUST made and entered into as of the \_\_\_ day of May, 2009 (the "*First Supplemental Indenture*"), by and between the CITY OF RACINE, WISCONSIN, a municipal corporation of the State of Wisconsin (the "*Issuer*") and WELLS FARGO BANK, NATIONAL ASSOCIATION, a national association under the laws of the United States of America, as Trustee (the "*Trustee*");

### WITNESSETH:

WHEREAS, pursuant to and in accordance with the provisions of an Indenture of Trust dated as of March 1, 2004 (the "*Original Indenture*") between the Issuer and the Trustee, on April 1, 2004 the Issuer issued its Variable/Fixed Rate Demand Solid Waste Disposal Refunding Revenue Bonds (Republic Services, Inc. Project) Series 2004 in the aggregate principal amount of \$20,000,000 (the "*Bonds*"); and

WHEREAS, the Issuer has determined to amend certain provisions of the Original Indenture in connection with a change in the method of determining interest on the Bonds to a Weekly Rate and the addition of a Letter of Credit; and

WHEREAS, Section 10.02 of the Original Indenture authorizes the execution and delivery of a supplemental indenture to make such amendments without notice to any Bondholders but with the consent of the owner of each affected Bond;

NOW THEREFORE, KNOW ALL MEN BY THESE PRESENTS, THIS FIRST SUPPLEMENTAL INDENTURE OF TRUST WITNESSETH:

### ARTICLE I

#### DEFINITIONS

*Section 101. Definitions of Terms.* Except for the terms below, all other words and terms defined in Article I and elsewhere in the Indenture shall have the same respective meanings in this First Supplemental Indenture. The following definitions are hereby amended as follows:

The definition of "*J.J. Kenny Index*" is hereby deleted in its entirety.

"*Maturity Date*" means November 1, 2037.

The following definition is hereby added to Article I of the Original Indenture:

"*Municipal Index*" means the Securities Industry and Financial Markets Association Municipal Swap Index™ as of the most recent date for which such index was published or such other weekly, high-grade index comprised of seven-day, tax-exempt variable rate demand notes

produced by Municipal Market Data, Inc., or its successor, or otherwise designated by the Securities Industry and Financial Markets Association; provided, however, that, if such index is no longer provided by Municipal Market Data, Inc. or its successor, the “*Municipal Index*” means such other reasonably comparable index selected by the Remarketing Agent.).

The definition of “*Municipal Swap Index*” is hereby deleted in its entirety.

“*Rating Agency*” means Moody’s Investors Service, Inc., a corporation duly organized and existing under and by virtue of the laws of the State of Delaware, and its successors and assigns, and Standard & Poor’s Ratings Services, a division of The McGraw-Hill Companies, Inc., a corporation duly organized and existing under and by virtue of the laws of the State of New York, and its successors and assigns, in each case to the extent such entity is then rating the Bonds, except that if either such entity shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, then the term “*Rating Agency*” shall be deemed to include any other nationally recognized securities rating agency selected by the Company and approved by the Trustee (which shall not be subject to any liability by reason of such approval).

“*Tax Agreement*” means the Tax Exemption Certificate and Agreement, dated the date of issuance of the Bonds, among the Company, the Issuer and the Trustee, as supplemented by the Supplemental Tax Exemption Certificate and Agreement, dated the effective date of this First Supplemental Indenture, and as the Tax Agreement may be further supplemented or amended in accordance with its terms.

## ARTICLE II

### AMENDMENTS TO ORIGINAL INDENTURE

*Section 201. Amendments to Section 2.02 of the Original Indenture.* (a) The first sentence of Clause (1) of Subsection 2.02(a) of the Original Indenture is hereby amended to read as follows:

“When interest on the Bonds is payable at a Daily Rate, the Remarketing Agent shall set the Daily Rate on or before 10:00 a.m., New York City time, on each Business Day for that Business Day.”

(b) The first sentence of Clause (6) of Subsection 2.02(a) of the Original Indenture is hereby amended to read as follows:

“Except with respect to a failure with respect to the Auction Rate, provisions for which are described in Section 2.02(a)(7), in the event that the appropriate interest rate or Commercial Paper Period is not or cannot be determined for whatever reason, the method of determining interest on the Bonds shall be converted automatically to the Weekly Rate (without the necessity of complying with the requirements of Section 2.02(b)) and the interest rate shall be equal

to the Municipal Index, *provided* that if the Bonds are then in a Long-Term Interest Rate Period, the Bonds shall bear interest at a Weekly Rate, but only if a Favorable Opinion of Tax Counsel with respect to the change to a Weekly Rate has been delivered to the Trustee and not rescinded prior to the effective date of such change.”

*Section 202. Amendments to Section 3.08 of the Original Indenture.* (a) Clause (i) of Subsection 3.08(c) of the Original Indenture is hereby amended to read as follows:

“(i) When the Bonds bear interest at a Daily Rate, no later than 11:15 a.m. (New York City time) on the same Business Day, provided that the Trustee shall have received notice from the Bondholder by 11:00 a.m. (New York City time); and”

(b) Subsection 3.08(d) of the Original Indenture is hereby amended to read as follows:

“(d) *Notice of Remarketing; Delivery of Remarketing Proceeds.* The Remarketing Agent shall give telephonic or telecopier notice, promptly confirmed in writing, to the Trustee specifying the principal amount of the Bonds for which it has remarketing proceeds (except proceeds from Bonds sold to the Issuer or the Company or any “insider” of either of the foregoing (as defined in the Bankruptcy Law)) on hand to purchase Bonds on any Purchase Date, as well as the principal amount of the Bonds for which it does not have remarketing proceeds on hand to purchase Bonds on such Purchase Date and the amount of accrued interest, if any, due on such Bonds. Such notice shall be given at or prior to 11:45 a.m., New York City time, on the applicable Purchase Date. When the Book-Entry System is not in effect, the Remarketing Agent shall also provide the Trustee at the time of such notice with the names, addresses and taxpayer identification numbers of the new Owners of the Bonds which have been remarketed in order to enable the Trustee to comply with subsection (e) of this Section. The Remarketing Agent shall deliver directly to the Trustee the remarketing proceeds (subject to the foregoing exception) for direct deposit in the Purchase Fund no later than 1:00 p.m., New York City time, on the applicable Purchase Date.”

*Section 203. Amendment to Section 5.01 of the Original Indenture.* Clause (2) of Subsection 5.01(a) of the Original Indenture is hereby amended to read as follows:

“(2) interest on the Bonds for a period of 35 days at the rate of 12% per annum or such lower maximum interest rate as may be specified in the Letter of Credit;”

*Section 204. Amendment to Section 5.02 of the Original Indenture.* The third paragraph of Section 5.02 of the Original Indenture is hereby amended to read as follows:

“Unless the Trustee shall have received written notice from the Remarketing Agent at or prior to 11:45 a.m., New York City time on the Purchase Date that such Bonds shall have been remarketed pursuant to Section 3.08(c) hereof, that the Remarketing Agent has available the full amount of the proceeds of the sale of the Bonds and that the remarketing proceeds will be sufficient to pay the purchase price of such Bonds, on each day on which Bonds are to be purchased the Trustee shall draw on or otherwise realize upon the Letter of Credit, in accordance with its terms, before 12:00 noon, New York City time, on each Purchase Date, to pay the purchase price of Bonds (other than Bonds held pursuant to Section 3.08(a)(3) and other than for Bonds sold to the Issuer or the Company or any “insider” of either of the foregoing, as defined in the Bankruptcy Law) tendered or deemed tendered, to the extent necessary to provide amounts required for the purchase of such Bonds to the extent not available from the proceeds of the sale of the Bonds, and such amounts shall be received by the Trustee by 2:00 p.m., New York City time, on the Purchase Date for deposit to the Purchase Fund. Bonds, the proceeds of the remarketing of which are not delivered to the Trustee by 2:00 p.m., New York City time, on the date such Bonds are purchased from the proceeds of the Letter of Credit, shall, if the Letter of Credit securing such Bonds shall have been reinstated, be held pursuant to Section 3.08(a)(3).”

*Section 205. Amendments to Section 8.01 of the Original Indenture.* (a) Clauses (d) and (e) of Section 8.01 of the Original Indenture are hereby amended to read as follows:

“(d) The Issuer fails to perform any of its other agreements in this Indenture or the Bonds, the performance of which is material to the Bondholders, and the failure continues after the notice and for the period specified in this Section.”

“(e) The occurrence of an event of default under the Loan Agreement.”

(b) The last paragraph of Section 8.01 of the Original Indenture is hereby amended to read as follows:

“A default under clause (d) or (e) of this Section, except a default that is also an Event of Default under clause (a), (b) or (c) of this Section, is not an Event of Default until the Trustee or the holders of at least 25% in principal amount of the Bonds then outstanding give the Issuer and the Company a notice specifying the default, demanding that it be remedied and stating that the notice is a

“Notice of Default,” and the Issuer (if the default is under clause (d)) or the Company (if the default is under clause (e) or if the default is under clause (d) and the Company has elected to perform the Issuer’s agreements under this Indenture and the Bonds as described in the last sentence of this paragraph) does not cure the default within 90 days after receipt of the notice, or within such longer period as the Trustee shall agree to. The Trustee shall not unreasonably refuse to agree to a longer period if the default cannot reasonably be cured within 90 days after receipt of the notice and the Issuer or the Company has begun within 90 days and continued diligent efforts to correct the default. The Issuer authorizes the Company to perform, in the name and on behalf of the Issuer but at the expense of the Company and for the purpose of preventing the occurrence of an Event of Default, any agreement of the Issuer in this Indenture or the Bonds.”

*Section 206. Amendment to Section 8.02 of the Original Indenture.* The last paragraph of Section 8.02 of the Original Indenture is hereby amended to read as follows:

“The Trustee may, and upon the request of the Owners of a majority in principal amount of the Bonds then Outstanding shall, rescind an acceleration and its consequences if all existing Events of Default have been cured or waived, and (a) if, when a Letter of Credit is in effect, the Bank gives its written consent to the waiver and rescission of the default or event of default under the Credit Agreement and gives notice in writing that the Letter of Credit has not expired in accordance with its terms and that the Letter of Credit is reinstated in an amount equal to the principal of all Outstanding Bonds and (except during a Commercial Paper Mode or a Long-Term Interest Rate Period) 35 days’ interest accrued on the Bonds at a maximum rate of 12%; (b) the rescission would not conflict with any judgment or decree; and (c) all payments due the Trustee and any predecessor Trustee under Section 9.06 have been made.”

*Section 207. Amendment to Section 8.04 of the Original Indenture.* Section 8.04 of the Original Indenture is hereby amended to read as follows:

*“Waiver of Past Defaults.* The Owners of not less than a majority in aggregate principal amount of the Bonds then Outstanding, by notice to the Trustee and the Company, may waive an Event of Default and its consequences if (a) when a Letter of Credit is in effect, the Bank gives its written consent to the waiver and rescission of the Event of Default (including, for an Event of Default under Section 8.02(f), written notice of the rescission of the “default” or “event of default” under the Credit Agreement) and

gives notice in writing that the Letter of Credit has not expired in accordance with its terms and that the Letter of Credit is reinstated in an amount equal to the principal of all Outstanding Bonds and (except during a Commercial Paper Mode or a Long-Term Interest Rate Period) 35 days' interest accrued on the Bonds at a maximum rate of 12%; (b) the waiver or rescission would not conflict with any judgment or decree; and (c) all payments due the Trustee and any predecessor Trustee under Section 9.06 have been made. When an Event of Default is waived, it is cured and stops continuing, but no such waiver shall extend to any subsequent or other Event of Default or impair any right consequent to it.”

*Section 208. Amendment to Section 9.12 of the Original Indenture.* The first, second and third sentences of Section 9.12 of the Original Indenture are hereby deleted and replaced with the following sentence:

“The Remarketing Agent may resign or be removed by the Company as set forth in the Remarketing Agreement.”

*Section 209. Amendments to Exhibit A, Form of Bond, of the Original Indenture.*

- (a) The Maturity Date stated on the first page of Exhibit A, Form of Bond, of the Original Indenture is hereby amended to read, “November 1, 2037”.
- (b) The first paragraph of the Subsection entitled “*Daily Rate Tender*” in Paragraph 6 of Exhibit A, Form of Bond, of the Original Indenture is hereby amended to read as follows:

*“Daily Rate Tender.* When interest on the Bonds is payable at a Daily Rate and the Book-Entry System is in effect, a Beneficial Owner of a Bond may tender such Bond (or any portion thereof in an authorized denomination) by delivering an irrevocable written notice or an irrevocable telephone notice, promptly confirmed in writing, to the Trustee by 11:00 a.m., New York City time, on any Business Day, stating the principal amount of the Bond (or portion thereof) being tendered, the name, address and taxpayer identification number of such Beneficial Owner, payment instructions for the purchase price and the Business Day (which may be the date the notice is delivered) on which such Bond (or portion thereof) is to be purchased. The Beneficial Owner shall effect delivery of such Bonds by causing its direct Participant to transfer its interest in the Bonds equal to such Beneficial Owner’s interest on the records of the Securities Depository to the participant account of the Trustee with the Securities Depository.”



(c) The Subsection entitled “*Mandatory Tenders*” in Paragraph 6 of Exhibit A, Form of Bond, of the Original Indenture is hereby amended to add an additional subparagraph after the subparagraph entitled “*First Mandatory Tender Date*” to read as follows:

“*Extraordinary Mandatory Tender Date.* The Bonds are subject to a mandatory tender and purchase on May \_\_, 2009, or such other date within 30 days thereof designated in writing by the Company to the Trustee, and such mandatory tender date shall be the effective date of a change in the interest rate determination method to the Weekly Rate. Notwithstanding anything in the Indenture or this Bond to the contrary, no notice of this mandatory tender and change in interest rate determination method needs to be sent to the registered owner of this Bond or any other person.”

(d) The first sentence of the Subsection entitled “*Notice of Mandatory Tender*” in Paragraph 6 of Exhibit A, Form of Bond, of the Original Indenture is hereby amended to read as follows:

“The Trustee will mail a notice of mandatory tender by first-class mail to each registered owner at the registered owner’s registered address as follows: (i) at least 15 days before the effective date of a new method of determining the interest rate on the Bonds, or upon the commencement of any new Long-Term Interest Rate Period; (ii) at least 30 days before the effective date of a change in the method of determining the interest rate on the Bonds if a Long-Term Interest Rate is then in effect and such effective date is earlier than the day after the last day of the then current Long-Term Interest Rate Period; or (iii) at least 20 but not more than 30 days before all other mandatory Purchase Dates; *provided* that shall notice need not be given for a mandatory Purchase Date that falls on an Interest Payment Date during a Commercial Paper Mode.”

(e) The first sentence of the Subsection entitled “*Mandatory Redemption on Determination of Taxability*” in Paragraph 8 of Exhibit A, Form of Bond, of the Original Indenture is hereby amended to read as follows:

“The Bonds will be redeemed, without premium, in whole (or in part as provided below) on any day within 120 days after the Company receives written notice from a Beneficial Owner or former Beneficial Owner or the Trustee of a final determination by the Internal Revenue Service or a court of competent jurisdiction that, or the Company provides the Trustee with an Opinion of Tax Counsel to the effect that, as a result of a failure by the Company to perform any of its agreements in the Loan Agreement or the Tax Agreement or the inaccuracy of any of its representations in the

Loan Agreement or the Tax Agreement, the interest paid or to be paid on any Bond (except to a “substantial user” of the Project or a “related person” within the meaning of Section 147(a) of the Code) is or will be includible in the gross income of the Beneficial Owner thereof for federal income tax purposes.”

### ARTICLE III

#### MISCELLANEOUS

*Section 301. Indenture Confirmed.* Except as amended by this First Supplemental Indenture, all of the provisions of the Original Indenture shall remain in full force and effect, and from and after the effective date of this First Supplemental Indenture shall be deemed to have been amended as herein set forth.

*Section 302. Severability.* If any provision of this First Supplemental Indenture shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatever.

*Section 303. Counterparts.* This First Supplemental Indenture may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

*Section 304. Applicable Provisions of Law.* This First Supplemental Indenture shall be governed by and construed in accordance with the laws of the State of Wisconsin.

*Section 305. Effective Date.* The amendments set forth in this First Supplemental Indenture shall become effective on the date the Trustee has received the consent to the execution thereof by the Company, the Bank and the holders of all of the outstanding Bonds.

CITY OF RACINE, WISCONSIN

By: \_\_\_\_\_  
Mayor

[SEAL]

ATTEST:

\_\_\_\_\_  
City Clerk

WELLS FARGO BANK, NATIONAL  
ASSOCIATION,  
as Trustee

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

**CONSENT OF THE COMPANY**

Pursuant to Section 10.06 of the Indenture of Trust dated as of March 1, 2004 between the City of Racine, Wisconsin and Wells Fargo Bank, National Association, as trustee, Republic Services, Inc. hereby consents to the execution and delivery of this First Supplemental Indenture of Trust.

REPUBLIC SERVICES, INC.

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

Date: \_\_\_\_\_, 2009

**CONSENT OF BONDHOLDER**

The undersigned (the "*Bondholder*"), the beneficial owner as of \_\_\_\_\_, 2009 of all outstanding City of Racine, Wisconsin Variable/Fixed Rate Demand Solid Waste Disposal Refunding Revenue Bonds (Republic Services, Inc. Project) Series 2004, hereby consents to the execution and delivery of the First Supplemental Indenture of Trust dated as of May \_\_, 2009 between the City of Racine, Wisconsin and Wells Fargo Bank, National Association, as trustee, attached hereto. The beneficial owner agrees that this Consent shall be irrevocable.

Name of Beneficial Owner:  
Republic Services, Inc.

Aggregate Principal Amount of Bonds Owned:  
\$20,000,000

CUSIP No. 750042 AC7

REPUBLIC SERVICES, INC.

By: \_\_\_\_\_  
Vice President Finance and Treasurer

Date: \_\_\_\_\_, 2009