

MEMORANDUM OF AGREEMENT

Between

The City of Roswell

and

Gas South, LLC

1. **Purpose:** This Memorandum of Agreement (“MOA”) between the City of Roswell, Georgia (“CITY”) and Gas South, LLC (“Gas South”) is designed to:
 - a. Offer natural gas discounts to CITY associated residential customers;
 - b. Provide incentives to CITY for Gas South customers within the City using the Gas South-Roswell Affinity Program; and,
 - c. Establish Gas South as a Preferred Partner of CITY with the attendant sponsor benefits.
2. **Background:** The City of Roswell is an incorporated municipality located in the Gas South service area. Gas South is interested in promoting civic good will and supporting the efforts of CITY throughout its municipal territory.
3. **Intent:** Continue to foster the relationship between CITY and Gas South to provide cost-effective and competitive natural gas rates through an effort to be known as the “Gas South-Roswell Affinity Program”.
4. **Financial:** During the Term, Gas South will make a one time “incentive payment” to CITY of \$12 for each new residential and \$24 for each new commercial account that signs up for service using the CITY promo code.

During the Term, Gas South will also pay a “loyalty payment” to CITY of \$1 per month per residential customer and \$2 per month per commercial customer for all customers using the CITY Promo code, who continue as Gas South customers through the end of each calendar month.

The foregoing incentive payments and loyalty payments shall be made as follows:

- a. No later than July 31, for the period April through June;
 - b. No later than October 31, for the period July through September;
 - c. No later than January 31, for the period October through December;
 - d. No later than April 30, for the period January through March.
5. **CITY Responsibilities**
 - a. Recognize Gas South’s service and the Gas South-Roswell Affinity Program on its website (with a link to Gas South’s affinity partner enrollment page), in city newsletters, and through other means through which the CITY communicates with its residents;
 - b. Consider including information about the Gas South–Roswell Affinity Program in its water bills.

6. **Gas South Responsibilities**

- a. Provide to all Roswell residents and city employees in Gas South's service area a two cent per therm discount off of the standard residential rate plans offered by Gas South. The discount shall be available during the Term to new and existing Gas South customers who utilize CITY's promo code;
 - b. Participate in CITY training and outreach activities as requested and available;
 - c. Provide CITY staff with marketing materials that describe the Gas South-Roswell Affinity Program;
 - d. Evaluate the potential for sending direct mail marketing pieces to CITY residents that include an explanation of the Gas South-Roswell Affinity Program and include a promo code that will allow the residents to receive a discounted natural gas rate. Any direct mail would be subject to the review and approval of CITY;
 - e. Work with CITY Staff to identify innovative ways to market the Gas South-Roswell Affinity Program, including but not limited to paid advertising in area publications using the CITY name, logo, and promo code to raise awareness and drive participation in the Program. Any advertising that includes CITY name or logo will be subject to the review and approval of CITY;
 - f. Evaluate sponsorship opportunities related to community events, cultural arts programs, green initiatives or parks and recreation activities, that help raise awareness of the Gas South-Roswell Affinity Program; and
 - g. Participate, at a minimum, in an annual meeting to evaluate the effectiveness of the Gas South-Roswell Affinity Program.
7. **Effective Date:** The effective date of this MOA shall commence upon the date last signed by the City Administrator of CITY and a Representative of Gas South.
8. **Term:** The term ("Term") of this MOA shall commence upon the date last signed and continue for a period of one (1) year from the date of signature, and will continue for successive one year periods unless either party gives notice of termination at least 30 days prior to the end of the then existing Term, pursuant the procedures outlined in 9 below.
9. **Termination:** Any party may terminate this MOA at any time by providing 90 days written notice of the termination to either party. Such notice shall be given as outlined in Paragraph 13, below. Either party may also give notice of termination at least 30 days prior to the expiration of the then existing Term. Funds already paid to CITY shall not be refunded if this MOA agreement is terminated by Gas South's request without Cause, or by CITY For Cause, as provided herein, before the end of the Term. Otherwise, a pro rata portion of Gas South's annual payment to CITY will be returned.

This MOA may be terminated immediately "For Cause" by either party if it is alleged that the other party engaged in behavior that is illegal or offensive to generally accepted standards of behavior, including, but not limited to, discrimination or financial impropriety, so as to cause the other party to believe that public association with the offending party would tend to subject the other party to ridicule, contempt, controversy, embarrassment or scandal.

In the event of material breach of any provision of this MOA (other than by illegal or offensive behavior), including default by either party, the other party may terminate this MOA "For Cause" first by giving thirty (30) days written notice of the breach to the breaching party to allow for cure. If the breaching party fails to cure the breach within such thirty (30) day period, the other party may terminate this Agreement For Cause by giving ten (10) days additional written notice

to the breaching party. If any part of this MOA is determined by a Court of competent jurisdiction to be illegal, such MOA shall automatically be terminated.

10. **Trademark Use and Restrictions** Nothing herein shall be construed to authorize or permit Gas South, its agents, or licensees to use any material containing any symbol, trademark or trade dress belonging to CITY or refer to itself as an "official sponsor" or "preferred partner" of CITY without CITY's prior written approval. This paragraph shall not apply to steps taken by the parties in performance of this Agreement, and CITY hereby consents to appropriate uses of its symbols, trademarks, and trade names, used by the parties in the performance of this Agreement, including the designation of Gas South as a Preferred Partner of CITY. Nothing herein shall be construed to authorize or permit CITY, its agents, or licensees to use any material containing any symbol, trademark or trade dress belonging to Gas South without Gas South's prior written approval. This paragraph shall not apply to steps taken by the parties in performance of this Agreement, and Gas South hereby consents to appropriate use of its symbols, trademarks, and trade names, used by the parties in the performance of this Agreement.

Gas South owns all rights to, or has the right to use the Gas South Marks including but not limited to the trade names, trademarks and logos of Gas South. CITY owns all rights to, or has the right to use the CITY Marks including but not limited to the trade names, trademarks and logos of CITY.

11. **Relationship between Parties:** This Agreement does not constitute and shall not be construed as creating a partnership or joint venture between the two parties. Neither party shall have any right to obligate or bind the other party in any manner whatsoever, and nothing contained herein shall give, or is intended to give any rights to any third person.
12. **No Affiliate Liability:** No affiliate of either party shall have any liability whatsoever for either party's performance, nonperformance, or delay in performance under this MOA.
13. **Notices:** All notices shall be in writing. All notices delivered by hand, including by carriers such as UPS and FedEx, shall be effective upon delivery and all notices mailed registered or certified mail, return receipt requested, shall be effective when received, as indicated on the return receipt, when delivered to:

(i) If to CITY:

City of Roswell
38 Hill Street
Roswell, Georgia
Attn: City Administrator

(ii) If to Gas South:

Gas South, LLC
One Overton Park
3625 Cumberland Blvd., Suite 1500
Atlanta, Georgia 30339
Attn: CEO

14. **Confidentiality.** CITY and Gas South shall not release confidential information from each other except as otherwise provided by law.
15. **Insurance:** Each party shall maintain, at its sole expense, any insurance and/or bonds required by law.


16. **State Law:** This MOA shall be subject to the laws of the State of Georgia.
17. **Entire Agreement:** This MOA represents the entire agreement between CITY and Gas South. The provisions of this MOA may not be altered, amended or waived except by written agreement signed by all parties. Neither party shall be bound by any oral agreements, representations or special arrangements contrary to or in addition to the terms and conditions contained herein.
18. **Assignment.** This MOA may not be assigned or delegated in whole or in part without the prior written consent of the other party, such consent not being unreasonably withheld.
19. **Execution.** This MOA may be executed in one or more counterparts. The signature of any party thereon is to be considered as an original signature and the document transmitted is to be considered to have the same binding effect as an original signature or an original document.

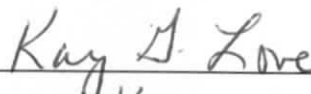
ATTEST

All terms of this Memorandum of Agreement are hereby acknowledged and agreed to as certified by the signatures of the duly authorized officers and agents affixed hereby. The parties hereto have executed this MOA, the dates set forth below.

GAS SOUTH, LLC

CITY OF ROSWELL, GEORGIA

By: 
Printed Name: Kevin Coreiner
Title: President & CEO
Date: 5/9/11

By: 
Printed Name: Kay G. Love
Title: City Administrator
Date: 5-6-11

