

Consulting Services Agreement

Introduction

This Consulting Services Agreement, (the "Agreement"), is made by and between (i) Gregory R. Warnes Consulting (CONSULTANT), a Sole Proprietorship, with an address of 266 Brenda Lane, Albany, GA 31707, and (ii) Flint River Soil and Water Conservation District, ("CLIENT"), located at 4344 Albany Highway, Dawson, GA 39842, who, intending to be legally bound, hereby agree as follows:

WHEREAS CONSULTANT is a statistical consulting and software development organization,

WHEREAS CLIENT desires to contract with CONSULTANT to provide certain services to CLIENT, and CONSULTANT is willing to provide such services to CLIENT, on the terms and conditions set forth herein;

NOW, THEREFORE the parties agree as follows:

1. Services

CONSULTANT hereby agrees to provide to CLIENT the following contract services:

Design, construct, & deploy **prototype** website implementing the features of the "Irrigator Pro" Excel spreadsheet for corn, as described in Appendix A. Work to be performed is limited to the design of a prototype web application for corn:

1. database design and setup
2. creation of automated script to import CSV file from FTP site into database
3. implementation of computational algorithms for corn based on Excel file calculations
4. construction of basic no-frills (2-3 page) web site for corn based on Excel file layout & client-provided report template
5. basic site security.

Work to be completed by December 15th.

In performing these Services, CONSULTANT shall comply with the written instructions of CLIENT, standard Operating Principles approved by CLIENT, relevant professional standards, and all applicable federal laws, rules and regulations. CONSULTANT understands that execution of this Agreement does not represent a commitment of CLIENT to any level of business with CONSULTANT.

CLIENT agrees to provide 3 separate systems (physical or virtual) to support

- 1) A production web site
- 2) A development web site
- 3) A test web site

including all necessary operating system and software licenses.

2. Subcontractor Personnel

All Service conducted by CONSULTANT for CLIENT will be performed by Gregory Warnes unless otherwise approved in advance by CLIENT. CONSULTANT may not further subcontract services without the prior written consent of CLIENT.

3. Agreement Term and Project Timeline

The Term of this Agreement will begin as of the date of the last signing party (the "Effective Date") and shall continue for a period of two (2) months unless terminated earlier as allowed herein. The Term of the Agreement or the timeline of the Services may be modified or extended only by mutual written

agreement of both parties.

4. Progress Reports

CONSULTANT shall use reasonable efforts to perform the Services as described herein, to keep CLIENT advised of the progress of work on a weekly basis, to permit representatives of CLIENT to inspect the results of the Services, and to provide CLIENT with such documentation, reports, specifications, drawings, models, and the like, as are appropriate to the nature of the Services to be performed hereunder.

5. Costs

In consideration of CONSULTANT's acceptance of this Agreement and the acceptable execution of Services, CLIENT shall pay CONSULTANT \$3,750 USD total for the above mentioned Services.

In addition, CLIENT will reimburse CONSULTANT reasonable expenses for lodging, meals, and transportation to face to face meetings at CLIENT's office provided that such travel is pre-approved by CLIENT. Expenses shall be paid on a pass through basis plus 5% and CONSULTANT agrees to submit copies of all receipts.

6. Deposit

Client will pay a deposit to Consultant for the Services in the amount of \$1,600 USD. This deposit shall be payable in advance upon contract execution.

Payment by CLIENT shall be made by [check/direct deposit/electronic funds transfer] to:

Gregory R. Warnes Consulting
266 Brenda Lane
Albany, GA 31707
EIN: 46-3149065

Invoices shall be submitted by CONSULTANT to CLIENT, and will be due fifteen (15) days following receipt of the invoices, as follows:

Date	Deliverable	Amount
Deposit	n/a	\$1,600.00
Dec 15, 2013	Prototype IrrigatorPro website for Corn	\$1,550.00
Total		\$3,750.00

Late charges will accrue at the rate of 1.5% per month will be accrue on bills not paid within fifteen (15) days.

7. Record Storage

7.1 During the Term of this Agreement, CONSULTANT agrees to maintain all electronic project data related to the Services performed under this Agreement. CONSULTANT agrees to adhere to a high degree of computer security practices. Computer must be maintained in a secure state. CONSULTANT

agrees to notify CLIENT immediately of any theft of suspected security breach involving the computer. At the expiration or termination of this Agreement all data, and materials will, at CLIENT's option (a) be delivered to CLIENT in such form as is then currently in the possession of CONSULTANT, (b) retained by CONSULTANT for CLIENT for an agreed upon period of time, or (c) disposed of, at the direction and written request of CLIENT, unless such data and materials are otherwise required to be stored or maintained by CONSULTANT as a matter of law or regulation. CLIENT shall have sole responsibility for the costs of shipping, destroying, and any other services of the materials referred to herein.

7.2 IN NO EVENT SHALL CONSULTANT DISPOSE OF ANY DATA OR MATERIALS OR OTHER INFORMATION OBTAINED OR GENERATED AS PART OF AND DURING THE TERM OF THIS AGREEMENT WITHOUT FIRST GIVING CLIENT SIXTY (60) DAYS PRIOR WRITTEN NOTICE OF ITS INTENT TO DO SO.

7.3 CONSULTANT may retain copies of any data and materials referred to herein as are reasonably necessary for regulatory or insurance purposes, subject to its ongoing obligation to maintain the confidentiality of such data and materials.

8. Limitation of Liability

8.1 CLIENT shall forward to CONSULTANT in a timely manner all data, documents, materials and information in CLIENT'S possession or control that are necessary for CONSULTANT to perform the Services. It is understood that CONSULTANT shall not be liable to CLIENT nor be deemed to have breached this Agreement for delays arising from CLIENT'S failure to timely provide such required data, documents, materials or information, in order for CONSULTANT to perform the Services in accordance with agreed upon timelines or deadlines. CLIENT acknowledges that if such delays occur, then performance of the Services by CONSULTANT shall be extended by no less than the length of time of such delays.

8.2 CONSULTANT shall not be held liable or responsible for any breach of contract, negligence, or strict liability in tort or any other legal consequence as a result of data, documents, information, materials, or the like received from CLIENT for use by CONSULTANT in the performance of the Services.

8.3 IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR LOST PROFITS, LOSS OF USE, LOSS OF BUSINESS, BUSINESS INTERRUPTION, LOSS OF DATA, COST OF COVER OR ANY INDIRECT, SPECIAL, CONSEQUENTIAL OR INCIDENTAL DAMAGES OF ANY NATURE WHATSOEVER, HOWEVER CAUSED AND UNDER ANY THEORY OF LIABILITY WHETHER BASED IN CONTRACT, WARRANTY, TORT (INCLUDING WITHOUT LIMITATION, NEGLIGENCE), STRICT LIABILITY, STATUTORY OR OTHERWISE, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT EVEN IF THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

9. Termination

Either party may terminate this Agreement at any time by providing the other party with thirty (30) days prior written notice. In the event this Agreement is terminated by CLIENT without cause, CONSULTANT will be entitled to receive payment for a.) all work and services performed through the date of termination; b.) work or services committed to third parties up to the effective date of termination provided that such services and commitments cannot be canceled or terminated; and c.) expenses incurred by CONSULTANT and not yet reimbursed by CLIENT provided that such expenses were previously authorized by CLIENT.

11. Confidentiality

CONSULTANT and CLIENT agree that the relationship between the parties is of the strictest confidence regarding the existence and nature of discussions between the parties and that neither party shall disclose the existence or nature of this relationship to any third party without the prior written consent.

12. Intellectual Property

12.1 All intellectual property and rights owned or controlled by a party prior to the date hereof, and in connection with any Services, prior to the date thereof (collectively, "Background Technology") shall remain such party's sole and exclusive property and any right, privilege, license or other permission to use such Background Technology or to acquire any right with respect thereto by the other party shall only be created pursuant to this Agreement.

12.2 CONSULTANT acknowledges and agrees that it has no proprietary rights or interests in or to any data or study results given to CONSULTANT by CLIENT or to the results of the consulting services performed by CONSULTANT or to any use or application of any of the foregoing. More specifically, any inventions or intellectual property created during, and as a result of, the consulting services provided by CONSULTANT to CLIENT shall be owned by CLIENT.

13. Indemnification

13.1 CLIENT shall indemnify, defend, and hold harmless CONSULTANT, for any and all damages, costs, expenses, and other liabilities, including reasonable attorneys' fees and court costs, incurred in connection with any third-party claim, action, or arising from any breach by CLIENT of any of its obligations hereunder; provided, however, that CLIENT shall have no obligation hereunder with respect to any claim, action or proceeding to the extent that it arises from the negligence or willful misconduct of CONSULTANT or the breach by CONSULTANT of any of its obligations under this Agreement.

13.3 As a condition to indemnified party's right to receive indemnification under Section 12.1, the indemnified party shall (i) promptly notify the indemnifying party as soon as it becomes aware of a claim or action for which indemnification may be sought pursuant (a) or (b), (ii) cooperate with the indemnifying party in the defense of such claim or suit, and (iii) permit indemnifying party to control the defense of such claim or suit, including without limitation the right to select defense counsel. In no event, however, may the indemnified party compromise or settle any claim or suit in a manner which admits fault or negligence on the part of the indemnifying party without the prior written consent of the indemnifying party.

14. Conflicts

Each party represents that it has the legal right to enter into this Agreement and that it is under no obligation to any third party that would prevent it from fulfilling its obligations under this Agreement.

15. Assignment

This Agreement is not assignable by either party without the prior written consent.

16. No Waiver and No Warranties

No waiver or modification of this Agreement or any provision hereof shall be valid and no evidence of waiver or modification shall be offered or received in evidence in any proceeding, arbitration or litigation between the parties hereto arising out of or affecting this Agreement or the rights or obligations of the parties hereunder, unless such waiver or modification is in writing duly signed by both parties.

17. Force Majeure

CONSULTANT shall not be liable for any failure to perform as required by this Agreement, to the extent such failure to perform is due to circumstances reasonably beyond CONSULTANT's control, such as labor disturbances or labor disputes of any kind, accidents, civil disorders or commotion, acts of aggression, acts of God, energy or other conservation measures, explosions, failure of utilities, mechanical breakdowns, material shortages, or disease. Performance shall be excused only during the period of such disability. Notice of the start and stop of any such force majeure shall be provided to CLIENT.

18. Governing Law

This Agreement and the rights and obligations of both parties shall be governed and construed in accordance with the laws of the State of Georgia, without giving effect to its choice of law or conflict of laws rules.

19. Dispute Resolution

In the event of any controversy or claim arising out of or relating to this Agreement, or a breach thereof, CONSULTANT and CLIENT shall consult and negotiate with each other and, recognizing their mutual interests, attempt to reach a satisfactory solution. If a settlement is not reached within sixty (60) days after the dispute is initiated in writing then, upon notice by any party to the other, any unresolved controversy or claim shall be settled by arbitration administered by the American Arbitration Association in accordance with the provisions of its Commercial Arbitration Rules using a single arbitrator. Judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The non-prevailing party shall pay all arbitration costs including reasonable attorneys' fees. The arbitrator's decision shall follow the plain meaning of the relevant documents, and in no event shall the arbitrator have the authority to make any award that provides for punitive or exemplary damages. The arbitrator's decision shall be final and binding and the Parties agree to be bound by the decision and award of arbitration. Notwithstanding the dispute resolution provisions set forth herein, a Party may exercise all rights and remedies to seek and obtain injunctive and/or other equitable relief from a court of competent jurisdiction. The place of arbitration shall be Lee County, Georgia and the language of the arbitration shall be English.

20. Independent Contractor

The status of the parties shall be as independent contractors and not as employer-employee or principal-agent of the other. CONSULTANT is an independent contractor and not an employee or agent of CLIENT. Neither party shall have the authority to legally bind the other in contract, debt, or otherwise, nor shall either hold itself out as having such authority.

21. Severability

In case any one or more of the provisions contained in this Agreement shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect the other provisions of this Agreement.

22. Entire Agreement

This Agreement contains the complete understanding between the parties with respect to the subject matter hereof, and, except as specified herein, supersedes all other agreements, whether written or oral, between the parties concerning such subject matter. No amendments, changes, or supplements to this Agreement, including without limitation, changes in the services to be performed, total costs, and period of performance, shall be effective unless made in writing and signed by authorized representatives of both parties.

3. Notices

Any notices required to be given or which shall be given under this Agreement shall be in writing and delivered by first class mail addressed to the parties as follows:

CONSULTANT:

Gregory R. Warnes Consulting
266 Brenda Lane
Albany, GA 31707
(T) +1 585-678-6661
greg@warnes.net

CLIENT:

Name: MSM2
Title: _____
Flint River Soil and Water Conservation District
4344 Albany Highway
Dawson, GA 39842
Tel: 229-881-2767
Email: MAI@MCLENDONACRES.COM
Fax: 229-436-9234

24. Section and Other Headings

The headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement.

25. Publicity

Except as required by law, neither party shall use the name of the other party nor the name of any employee or agent of the other party in any advertising, news release, announcement, or other form of publicity concerning this Agreement without the prior written consent of the other party.

26. Publication

CONSULTANT may not publish any articles or make any presentations relating to this Agreement or to the Project or referring to any data, information, materials, and results generated as a part of providing the Services, in whole or in part, without the prior written consent of CLIENT. CLIENT may not list CONSULTANT as an author, co-author, or in acknowledgements without prior written consent of CONSULTANT.

27. Survival

Sections 8, 11, 12, 13, 14, 15, 16, 18, 19, 20, 21, 22, 25, and 26 shall survive the termination or expiration of this Agreement

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be duly executed.

CONSULTANT:

Signature: _____

Name: Gregory R. Warnes

Title: Owner

Gregory R. Warnes Consulting

Date: _____

CLIENT:

Signature:  _____

Name: MARTIN MCLENDON

Title: _____

Flint River Soil and Water Conservation District

4344 Albany Highway

Dawson, GA 39842

Date: 12-4-13

Appendix A: Irrigator Pro On Line Project Description

Basic Premise:

This project will assist users in irrigation decisions based on sensor readings forwarded from an FTP site to a cloud based server database. A second program database will extract necessary data from the FTP data for use in the decision process of the specific crop program.

This project is multi-phases.

Phase 1: Use SQL to build 2 data bases.

Database1: Used to upload automated field sensor data on an hourly basis from FTP site for storage and future use in decision testing.

Database2: Will be the program use database from which the decision software will be run. There will be at least three crop types, currently Corn, Cotton, Peanuts. Many of the fields are the same for each crop so only one database is needed. The FTP data for the 8am hour will also be copied directly to this database if available.

Phase 2: Develop a website that will enable the user to utilize the FTP data with manually entered data such as Rainfall, Temperatures, Crop type, Soil type, Planting and date a few other crop specific items of information to work a decision process program that will give an Irrigate/Non Irrigate decision report with some other printable data for the user. The decisions will be based on a xls spreadsheet program that currently make the decisions. The coder must be familiar with Microsoft Excel coding to be able to extract the formulas necessary for the decision process.

The web site must have:

- Secure Log In capability.
- Ability to enter data directly to the database through the programs.
- The ability to print decisions reports.
- The web site will be developed on an IBM cloud computer.

Because of cost SQL has been selected for the database development.

PHP has been recommended for the programming language but others may be considered with consideration for cost and general usage.

The programs will use automated data where available but will have the capability for totally manual data entry and retain full functionality.

Phase 3:

At the end of the crop year a capability to SAVE the data and retail the user log in, field and crop information for use in the following season.

Additional Information/Requirements

The project has a time critical component. The Phase1 and at least the website with one crop usable with decision reports needs to be accomplished by mid December 2013 with the remainder completed by February 2014 to be available for the 2014 planting season.

All code and other development materials will be sent to the project manager on no later the a biweekly basis. Delays and incomplete data will be dealt with on a case by case basis.

Direct contact with the project manager will be made available as needed for the timely competition of this project