

**PJ Kortens & Company, Inc.**

Phone: (920) 730-9023  
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1985 W Packard Street  
Appleton, WI 54914

**Quote****No.: 230178****Date: 07/12/2023**

Kronenwetter Water Utility, Village of  
1582 Kronenwetter Drive  
Kronenwetter, WI 54455 USA

Prepared for: Mark Mackey  
Phone: (715) 693-5732

## Scada Computer Replacement

**Scope:**

P.J. Kortens & Co respectfully submits this quotation to replace the SCADA Computer. The following will be provided as part of this quote:

- A new Dell computer with Windows 10 and upgrades of the following software's:
    - Wonderware SCADA software,
    - XL reporter software upgrade
    - Win-911 alarm software. See note below!!
  - Grandstream modem
  - Installation and startup of SCADA computer
- Labor includes upgrading software for the above listed applications

Note: The Win-911 software is currently on support. At this time the Win-911 software upgrade would be covered under this support.

Quantity	Part Number	Description
1	Misc. Materials	Dell computer, monitor, mouse , key board
1	UCM6202 IP	GRANDSTREAM IP PBX 2 FXS PORTS 2 FXO PORTS WIN -911 Modem (Interactive)
1	Misc. Materials	Wonderware software upgrade
1	Misc. Materials	XL Reporter software upgrade
1.00	Labor - Programming	Programming Labor
225	Mileage Expenses	Mileage

**Your Price:** **\$18,650.00**

**Total:** **\$18,650.00**

Prices are firm until 8/9/2023      Terms: Net 15

**Prepared by:** Mark Hoff, mark.hoff@pjkco.com

**Date:** \_\_\_\_\_

**Accepted by:** *Jim Mackey, Administrator*

**Date:** *7/12/2023*

## Disclaimer

### Terms and Conditions

1. All prices quoted are valid for 30 days. Please fax signed quote to 920-730-8931 or email to info@pjko.com so that your order can be placed. Any sales tax due will be invoiced in addition to the quoted price.

2. PJKortens & Company, Inc. (hereafter named as "Seller") agrees to perform the deliveries and services as stated in the 'Scope of Work' attached to this agreement.

Unless otherwise specified in Seller's quotation, the Purchaser shall pay the purchase price (including the price of goods and fees for services) in full within thirty (30) days after the services are rendered or the goods are shipped, unless otherwise stated in the proposal. Hardware invoiced FOB shipping from factory, with verification of receipt for assembly or installation.

3. All invoices from the Seller unpaid after the due date shall bear interest at the rate of one and one-half percent per month. The Seller may, at their option, cease to perform services or deliver goods for the Purchaser upon the Purchaser's failure to make timely payment. In the event collection of any amounts due hereunder is referred to an attorney by the Seller, Purchaser shall bear all costs of collection including, but not limited to, Seller's reasonable attorney's fees.

4. Warranty Period: Seller will warrant errors and omissions in the performance of the Scope of Work for twelve (12) months after acceptance of the work. For the purpose of start of the Warranty Period, acceptance of the work shall occur on the earliest of the following events:

(a) The date of first use by the Purchaser or first use for the benefit of the Purchaser, whether such use is partial or complete;

(b) The date of completion of the start-up or commissioning;

(c) Thirty (30) days after the Seller has delivered to the Purchaser the products under contract, or three (3) months after Seller has been caused to stop work for any reason beyond Seller's control.

In the event Purchaser believes Seller owes a warranty obligation applicable to the Scope of Work, or has otherwise failed to comply with any other contract obligation, it must notify Seller in writing within 20 days of its discovery of such obligation and in no event later than 90 days after completion of the applicable services or deliverables. If Seller owes a warranty obligation, it will promptly commence to remedy and cure such default upon receipt of such notice from Purchaser at Seller's own cost and expense or, at Seller's option, will refund to Purchaser the portion of the compensation paid for any defective services or deliverables. Such performance by Seller is Purchaser's sole and exclusive remedy in the event of a warranty obligation of Seller or any other failure of Seller to comply with its contract obligations. SELLER MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, AND ANY OTHER WARRANTIES (INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE/AGAINST INFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE) ARE EXPRESSLY DISCLAIMED BY SELLER TO THE FULLEST EXTENT PERMITTED BY LAW. All parts or products not manufactured by Seller will be covered only by the express warranty provided by the manufacturer. No warranty applies to the extent of damage or wear caused by misuse, normal wear and tear, negligence, accident, corrosion, modification by Purchaser, faulty installation, loss of product, or tampering in a manner to impair normal operation of the equipment.

5. With respect to products supplied by Seller that are covered by a manufacturer's warranty, Seller's sole responsibility shall be to replace, or at Seller's option repair, any equipment or parts thereof which are found to be defective in material or workmanship to the extent Seller is able to obtain such repair or replacement parts from the manufacturer. Seller shall provide such replacement parts FOB at manufacturer's shipping point, in keeping with the manufacturer's warranty policy, and Seller is not responsible for the cost of labor or expenses associated with the replacement or repair of any such parts. Under no circumstances will Seller extend or modify a manufacturer's warranty terms and/or conditions, or accept responsibility for consequential or speculative damages as a result of the products or services supplied by this agreement.

6. Intellectual Property: Seller retains all rights, title and interest in its services and deliverables, including patents and copyrights; however, upon payment of the agreed compensation to Seller, Purchaser will be deemed to have been granted a non-exclusive, non-transferable, royalty-free, perpetual license to use the services and deliverables for the purposes contemplated in the proposal, except that third-party "shrink-wrapped" software or "off-the-shelf" hardware provided through Seller will be subject to Purchaser's compliance, at its own costs, with all applicable manufacturer licensing requirements. Purchaser may not sell, sublicense, assign or transfer its license to the services and deliverables provided by Seller without the prior written consent of Seller, nor may Purchaser reverse engineer or make derivative works from the services or deliverables.

7. If Purchaser is the "end user" of the work, subject to the other terms and conditions set forth herein the Seller grants to Purchaser a non-transferable, non-exclusive, license to use the software for Purchaser's internal purpose only. The Purchaser shall not sell, license, disclose, give away, assign or transfer the software or any interest therein to anyone. The Purchaser, however, may engage other persons or firms to modify or add to the Systems Integrator's Software, in which case such other persons or firms may modify or add to the software for no purpose other than for Purchaser's internal benefit and, shall first execute and deliver to the Seller a confidentiality agreement indicating they shall not otherwise use, disclose, give away or transfer any interest in the software to anyone. If the Purchaser makes additions or modifications to the Software, Purchaser will own such additions and modifications, including all intellectual property rights in the additions and modifications.

8. Purchaser agrees that it will not, either while work is being performed by Seller pursuant to these terms and conditions, or within two (2) years thereafter; (a) hire any employee of Seller; (b) solicit or encourage any employee to leave the employ of Seller; or (c) hire any person who has left the employ of Seller within two (2) years after the termination of such person's employment with Seller. Seller offers the option to hire any current or previous Seller's employee from the date of this contract up to 24 months after the project or assignment is complete for a fee of 50% of that staff member's total pay, wages, and/or salary with Purchaser (however described by Purchaser) for a period of (5) five years, per employee, which fee the parties agree to as liquidated damages and as a reasonable estimate of the economic harm Seller will suffer from the loss of its employees. This fee represents the cost of replacement of the Seller employee. In addition, Purchaser shall give Seller fifteen (15) business days prior written notice of intent to hire any Seller employee.

9. Limit of Liability: In no event shall Seller be liable for more than the cost of the products sold contract or services provided. In no event shall Seller be liable for any damages resulting from loss of data, loss of profits, cost of cover or other special, incidental, consequential or indirect damages arising in any way out of the agreement.

10. Termination: If Purchaser fails to comply with its obligations under the proposal or these Terms and Conditions (including without limitation the full and timely payment to Seller), Seller may provide written notice of such default to Purchaser and may thereafter suspend further performance until such default is cured by Purchaser. When such default is cured by Purchaser, the amount to be paid for the Scope of Work will be equitably increased to account for Seller's damages arising from such suspension (including without limitation demobilization and remobilization expenses and increased costs of performance) and Seller the time for Seller to complete the Scope of Work will be equitably extended to account for such suspension. If Purchaser fails to cure such default within 30 days of its receipt of such notice from Seller, Seller may terminate its agreement with Purchaser by providing written notice to Purchaser and in such an event, Purchaser will pay Seller for all portions of the Scope of Work performed (in whole or in part) through the date of such termination, Seller's demobilization expenses and other reasonable termination costs, the amount of expected overhead and profit Seller would have earned on the cancelled portions of the Scope of Work if not for Purchaser's default, and any collection costs incurred by Seller in obtaining payment for its services and deliverables from Purchaser.
11. Safety items may exist that are not identified or corrected. It is the Purchaser's responsibility to do a thorough safety assessment of their facilities.
12. During the course of the project, either Purchaser or Seller may request changes to the Scope of the Work. Such changes will be effective if the other party agrees to the change in writing. If the agreed change results in greater or lesser cost, Seller's compensation for the work will be adjusted accordingly.
13. Purchaser acknowledges that the services and deliverables may be subject to export and use restrictions under applicable law, include Export Administration Regulations maintained by the United States Department of Commerce. Purchaser agrees to comply with all such requirements and to hold Seller harmless from any violations of such requirements.
14. In the event that performance of the services and/or delivery to Purchaser of the deliverables is delayed by circumstances beyond the reasonable control of Seller (including without limitation changes to the scope of work, delays by Purchaser in providing information to Seller, fire, natural disasters, civil disturbances, acts of governmental authorities, labor disputes, unavailability of materials or shipping delays), Seller will promptly notify Purchaser of such circumstances in writing and Seller will be granted an equitable extension of the time to meet its obligations under the agreement.
15. Seller is an independent contractor and will have sole charge over, and be solely responsible for, (a) the payment of its employees and subcontractors and (b) the means, methods, techniques and sequences used in the performance of the services and the creation of its deliverables. Both Seller and Purchaser assume that the industrial exemption applies to all services under this agreement, and Purchaser acknowledges that individuals not licensed as professional engineers may execute some or all of the services and create some or all of the deliverables.
16. In the event Seller and Purchaser cannot resolve any claim or dispute between them arising out of or related to the proposal or the scope of work through direct negotiations, such dispute shall be subject to arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association. Such arbitration proceedings will be held in Wisconsin before a single arbitrator with experience in resolving disputes arising from information technology services. The prevailing party (as determined by the arbitrator) will be entitled to recover from the other party all costs incurred in resolving the dispute, including reasonable attorneys' and expert fees and the costs of arbitration. The arbitrator's award shall be final and may be entered as a judgment in any court with jurisdiction.
17. The agreement and these Terms and Conditions will be governed by the laws of Wisconsin and of the United States of America (including the Federal Arbitration Act, 9 U.S.C. § 1, et seq. with respect to the parties' agreement to arbitrate any dispute arising out of or related to the proposal or the scope of work), without regard to rules governing choice or conflict of laws. Purchaser and Seller agree that the agreement is predominately for the performance of services, not for the sale of goods, and further agree that the United Nations Convention on Contracts for the International Sale of Goods will not apply to their agreement.
18. Neither Purchaser nor Seller may assign its respective rights and obligations under their agreement without the written consent of the other party. However, Seller may subcontract or delegate its work obligations to other persons or entities, but will nonetheless be responsible to Purchaser for the performance of the work as required by the proposal. Both Purchaser and Seller agree that there are no third-party beneficiaries to their agreement.
19. If any term of the agreement or these Terms and Conditions is found to be unenforceable, the remaining terms will remain in effect. The failure of either Seller or Purchaser to exercise any rights under their agreement will not be deemed a waiver of such right except as agreed in writing or as otherwise set forth in these Terms and Conditions.
20. These Terms and Conditions, along with the attached Services Agreement and Scope of Work, constitute the entire integrated agreement between Seller and Purchaser for the services, deliverables and project. These terms supersede all previous and contemporaneous agreements, proposals and representations, written or oral, concerning such matters. Any additional, conflicting or inconsistent Purchaser terms (whether set forth in a request for proposals, purchase order or acknowledgement or in any other document) are expressly rejected by Seller and are not a part of this agreement.