

**VILLAGE OF LOMBARD**  
**REQUEST FOR BOARD OF TRUSTEES ACTION**  
For Inclusion on Board Agenda

  X   Resolution or Ordinance (Blue) \_\_\_\_\_ Waiver of First Requested  
\_\_\_\_\_ Recommendations of Boards, Commissions & Committees (Green)  
\_\_\_\_\_ Other Business (Pink)

**TO:** PRESIDENT AND BOARD OF TRUSTEES

**FROM:** Scott Niehaus, Village Manager

**DATE:** June 28, 2021 (COW) (B of T) **Date:** July 15, 2021

**TITLE:** Geotechnical Expert Services – SEECO Consultants

**SUBMITTED BY:** Carl Goldsmith, Director of Public Works *g*

**BACKGROUND/POLICY IMPLICATIONS:**

This professional services Agreement with SEECO Consultants, Inc. is for expert testimony services in support of litigation relative to the Illinois Route 53 Storm Water Pumping Station Project.

**FISCAL IMPACT/FUNDING SOURCE:**

Total Contract Amount: \$33,932.00  
Project Number: SS 10-01, IL Rt 53 Storm Water Pumping Station  
Account: 520.790.715.7 – Engineering Services

**REVIEW** (as needed):

Village Attorney XX \_\_\_\_\_ Date \_\_\_\_\_  
Finance Director XX \_\_\_\_\_ Date \_\_\_\_\_  
Village Manager XX \_\_\_\_\_ Date \_\_\_\_\_

**NOTE: All materials must be submitted to and approved by the Village Manager's Office by 4:30 pm, Wednesday, prior to the Board Agenda distribution.**



## MEMORANDUM

**TO:** Village President and Board of Trustees

**THROUGH:** Scott A. Niehaus, Village Manager

**FROM:** Carl Goldsmith, Director of Public Works *g*

**SUBJECT:** IL Route 53 Stormwater Pump Station Project – SEECO Expert Testimony

**DATE:** June 24, 2021

In support of the litigation relative to the construction of the Illinois Route 53 Stormwater Pump Station Project, Staff had accepted the attached proposal for expert witness testimony from SEECO Consulting in April of 2020 under the Village Manager's signature. At that time, it had been anticipated that their total fee would likely not exceed \$15,000 if the case were to be settled, but it was also understood that costs could exceed the Village Manager's authority of \$25,000 if the case persisted in the court. The Board of Trustees had been appraised in executive sessions of the plaintiff's continued unwillingness to settle, and the judge's final decision has now been very much in favor of the Village. SEECO's testimony had been critical to the judge's understanding. SEECO's final billing per the attached invoice totaled \$33,932.00. This amount exceeds the Village Manager's authority, so Staff respectfully requests that the invoice be placed on the Board of Trustees' agenda for approval by means of a simple motion.

attachments: SEECO proposal dated 4/23/20 & invoice no. 18588 dated 6/16/21

CG:dg h:\pw\pw-eng\projects\fy2010\ss-10-01 rte 53 storm pump station\dewatering\lawsuit\seeco expert contract invoice 6.24.2021.doc

**R E S O L U T I O N**  
**R \_\_\_\_\_ 21**

**A RESOLUTION AUTHORIZING SIGNATURE OF  
PRESIDENT AND CLERK ON AN AGREEMENT**

**WHEREAS**, the Corporate Authorities of the Village of Lombard have received an Agreement between the Village of Lombard and SEECO Consultants, Inc. for expert testimony in support of litigation relative to the Illinois Route 53 Storm Water Pumping Station Project as attached hereto and marked Exhibit "A", and

**WHEREAS**, the Corporate Authorities deem it to be in the best interest of the Village of Lombard to approve such Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LOMBARD, DU PAGE COUNTY, ILLINOIS as follows:

**SECTION 1:** That the Village Manager be and hereby is authorized to sign on behalf of the Village of Lombard said Agreement as attached hereto.

**SECTION 2:** That the final cost of services rendered under said Agreement by SEECO Consultants, Inc. totaling thirty three thousand nine hundred thirty two dollars and no cents (\$33,932.00) is authorized for payment.

Adopted this 15<sup>th</sup> day of July, 2021.

Ayes: \_\_\_\_\_

Nays: \_\_\_\_\_

Absent: \_\_\_\_\_

Approved this 15<sup>th</sup> day of July, 2021.

\_\_\_\_\_  
**Keith Giagnorio**  
**Village President**

ATTEST:

\_\_\_\_\_  
**Elizabeth Brezinski**  
**Village Clerk**

Construction Monitoring &  
Observations  
Construction Materials Testing  
Tunnels and Underground Openings  
Geotechnical Engineering &  
Evaluation

**SEECO Consultants Inc.**  
CONSULTING ENGINEERS

Subsurface Explorations  
Foundation Analysis & Design  
Structural Rehabilitation  
Condition Surveys  
Dams and Drainage Studies

April 23, 2020

Mr. Scott Niehaus, Village Manager  
Village of Lombard  
255 E. Wilson Ave.  
Lombard, IL 60148-3926

c/o Klein, Thorpe and Jenkins, Ltd.  
20 N. Wacker Dr., Ste. 1600  
Chicago, Illinois 60606

Attn: Mr. Jason Guisinger, Esquire

**REVISED PROPOSAL & CONTRACT**  
Expert Witness Testimony and Professional  
Engineering Opinion in Case 18 L 287 (DuPage  
County, IL) Rausch Infrastructure, LLC vs.  
Village of Lombard

Dear Mr. Guisinger,

Per your email request of this morning to Garrett Gray, SEECO has revised the proposal and contract concerning giving expert witness testimony in court as well as review of salient lawsuit documents in the subject case the following is given:

The following fees are applicable for this case for a Principal Engineer and Project Engineer.

**Collin W. Gray – P.E., S.E. – Principal Engineer**

- Out of Court - \$220.00/hr. for document review, site inspection, consultation with attorneys for the Village of Lombard and requested written engineering opinion reports
- Word Processor – if necessary - \$67.00/hr. for correspondence
- Collin W. Gray – In Court Time including Travel - \$350.00/hr. to and from DuPage County Courthouse (Portal-to-Portal) – Expert Witness Testimony
- Parking Fees – Reimbursable at Cost

**Garrett Gray – P.E. – Project Engineer**

- Out of Court - \$160.00/hr. for document review, site inspection, consultation with attorneys for the Village of Lombard and requested written engineering opinion reports
- In Court Time including Travel - \$275.00/hr. to and from DuPage County Courthouse (Portal to Portal) – Expert Witness Testimony

**REVISED PROPOSAL AND CONTRACT**  
Expert Witness Testimony and Professional  
Engineering Opinion in Case 18 L 287 (DuPage  
County, IL) Rausch Infrastructure LLC vs.  
Village of Lombard

April 23, 2020  
Page 2

- Word Processor – if necessary - \$67.00/hr. for correspondence

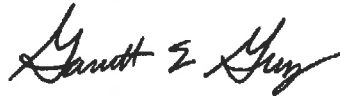
Invoicing terms are once per month with 30 days full payment after receipt of invoice.

If you want to use our consulting services, feel free to sign this contract and we will be ready to go to work for you and your client.

If you have any questions concerning this matter, please call me as soon as possible.

Respectfully submitted,

SEECO Consultants, Inc.



Garrett W. Gray, P.E.  
Project Engineer

ACCEPTED:

\_\_\_\_\_  
Village Manager

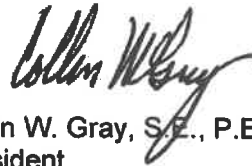
\_\_\_\_\_  
Name of Firm

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date

CWG:arm

Via Email: Jason Guisinger, Esquire, Klein, Thorpe & Jenkins ([jaguisinger@KTJLAW.com](mailto:jaguisinger@KTJLAW.com))



Collin W. Gray, S.E., P.E.  
President

Please sign one copy and return it to our office and retain one copy for your files.

## SEECO Consultants Inc. - General Conditions-11/10

### Scope of Work

SEECO Consultants Inc. (hereinafter called SEECO) shall perform the services defined in this contract and shall invoice the Client for those services at the stated amount or standard rates shown on the attached fee schedule. The estimate of cost to the Client as stated in this contract shall not be considered as a firm figure, but only an estimate unless otherwise specifically stated in this contract. SEECO will provide additional services under this contract as requested by the Client and invoice the Client for those additional services at the standard rates, as quoted. Contract does not include the provision for prevailing wage rates unless otherwise stated. Acceptance of services proposed herewith - prior to contract execution- implies and constitutes acceptance of rates and conditions set forth in this contract unless explicitly agreed upon mutually in writing prior to inception of services.

### Soil Boring Locations

It is understood that the Client will furnish SEECO with a diagram indicating both the location of the site and the borings on that site. SEECO reserves the right to deviate a reasonable distance from the boring location specified unless this right is specifically revoked by the Client in writing at the time the location diagram is supplied. SEECO reserves the right to terminate this contract if conditions preventing the drilling at the specified locations are encountered which were not made known to SEECO prior to the date of this contract. SEECO will contact the underground utility locate network responsible in the locale being drilled. However, SEECO is not responsible for damage to underground utilities that are not marked, located or mislocated/mismarked whether said utility is party to the locating network or not. Client is responsible for locating proprietary utilities and/or underground structures and appurtenances. SEECO will backfill the boreholes with soil cuttings and match the surface to existing conditions, unless otherwise stated in the contract. SEECO is not responsible to maintain boreholes beyond initial backfilling, for any repair of settled backfill, or any costs associated with potential borehole settlement, including reparations or personal injury beyond our active on site exploration time.

### Construction Observation and Testing

Unless otherwise stated in contract, field personnel charges are subject to an eight hour minimum, including portal-to-portal travel time. Any cancellations onsite will incur said eight hour minimum. Cancellations after travel time has commenced will incur a minimum charge of 3 hours to the client.

### Access to Sites

Unless otherwise agreed, the Client will furnish SEECO with right-of-access to the site in order to conduct the planned investigation or inspection. SEECO will take responsible precautions to minimize damage to the site due to its operations, but has not included in the fee the cost of restoration of any damage resulting from the operations. This includes crop damage/restoration costs. If the Client desires, SEECO will restore any damage to the site and add the cost of restoration to the fee stated in the proposal contract.

### Samples/Reports

All samples of soil and rock will be discarded 60 days after submission of the report unless the Client advises SEECO in writing to the contrary. SEECO will furnish three copies of each report to the client.

### Subcontracts/Assignments

SEECO reserves the right to subcontract drilling and related support services to SEECO Environmental Services Inc. and construction inspection, observation and testing services to SEECO Construction Services, Inc. Subcontracting rights are not limited to stated services or entities. Client may not assign this contract without express written consent of SEECO.

### Invoices

Invoices will be submitted once a month for services performed during the prior month. Payment will be due within 30 days of receipt of invoice unless otherwise stated in contract. Interest will be added to delinquent accounts at the rate of two percent per month for each month of delinquency. The billing rates as described in the contract may be increased on the annual anniversary of the effective date of this contract at an annual rate not to exceed 10%. Any and all costs incurred in collecting delinquent invoices, including but not limited to legal fees, filing fees and costs, court costs, etc. will be added to the amount due.

### Liability

SEECO is protected by Workman's Compensation Insurance (and/or employer's liability insurance) and by public liability insurance for bodily injury (limit \$1,000,000) and property damage (limit \$1,000,000) and will furnish certificates of insurance upon request. Within the limits of the insurance, SEECO agrees to save the Client harmless from loss, damage, injury or liability arising directly from the negligent acts or omissions of SEECO and its employees. If the Client's contract places greater responsibility upon SEECO or requires increased insurance coverage, SEECO will, if specifically directed by the Client, take out additional insurance, if obtainable, at the Client's expense, but will not be responsible for property damage from any causes, including fire and/or explosion beyond the limits of the insurance coverage.

### Limitation of Liability

The Client recognizes the inherent risks connected with construction. In performing their professional services, SEECO will use that degree of care and skill ordinarily exercised, under similar circumstances, by reputable members of their profession practicing in the same or similar locality. No other warranty, express or implied, is made or intended by the proposal for consulting services or by furnishing oral or written reports of the findings made. It is agreed that the Client will limit any and all liability, claim for damages, cost of defense, or expenses to be levied against SEECO on account of any design defect, error, omission, or professional negligence to a sum not to exceed \$1,000.00. Further, the Client agrees to notify any contractor or subcontractor who may perform work in connection with any design, report or study prepared by SEECO of such limitation of liability for design defects, omissions, or professional negligence, and require as a condition precedent to their performing the work a like limitation of liability on their part as against SEECO. In the event the Client fails to obtain a like limitation of liability provision as to design defects, errors, omissions, or professional negligence, any liability of the Client and SEECO in such a manner that the aggregate liability for SEECO for such design defect to all parties, including the Client shall not exceed \$1,000.00. Limitation of liability stated herewith is extended to include SEECO Construction Services, Inc. and SEECO Environmental Services, Inc., and any and all officers, shareholders, employees and/or agents of SEECO Consultants Inc., SEECO Construction Services, Inc., and/or SEECO Environmental Services, Inc.

**SEECO CONSULTANTS, INC.**

7350 DUVAN DRIVE  
TINLEY PARK, ILLINOIS 60477  
PHONE (708) 429-1666

PAGE NO.	INVOICE NO.	APPLY TO	INVOICE DATE	CUST. NO.
1	18588		6/16/2021	TOM06
<b>INVOICE</b>			WORK ORDER NO.	B.O. ....

1736

Public Works Invoice Routing

Reviewed: DPY 6/23/21

Recommended: \_\_\_\_\_ Date: \_\_\_\_\_

Approved: \_\_\_\_\_ Date: \_\_\_\_\_

SOLD TO

Village of Lombard  
255 East Wilson Ave

Lombard IL 60148-3926  
Scott Niehaus, Village Mgr

SHIP TO

Rausch Infrastructure, LLC  
vs Village of Lombard

Lombard IL  
(630) 620-5700 Ext. 0000

DATE SHIPPED	PURCHASE ORDER NO.	SHIP VIA	F.O.B.	TERMS			
6/16/2021				net 30 days			
BUYER	DATE REQUESTED	LOCATION	SALESPERSON	TERRITORY			
12112CS				FINAL			
ITEM NO.	DESCRIPTION	QUANTITY ORDERED	QUANTITY BACK ORD.	QUANTITY SHIPPED	UNIT PRICE	EXTENSION	TAX
	Consulting Engineering Services for Expert Witness Testimony and Professional Engineering Opinion and Document Review in Case 18L287 (DuPage County IL) Rausch Infrastructure, LLC vs Village of Lombard						
	Collin W. Gray, P.E., S.E. Principal Engineer Out of Court, per hr See Attached Breakdown of Time	64.500			\$220.00	\$14,190.00	
	Garrett W. Gray, P.E. Project Engineer, per hr Out of Court	106.000			\$160.00	\$16,960.00	
	In Court See Attached Breakdown of Time	5.000			\$275.00	\$1,375.00	
	Adrian Mirsky, Technical Typist, per hr See Attached Breakdown of Time	21.000			\$67.00	\$1,407.00	
<b>SUBTOTAL</b>							
\$33,932.00							\$33,932.00
						INVOICE NO.	
						18588	
						<b>PLEASE REMIT THIS AMOUNT</b>	

**RAUSCH INFRASTRUTCTURE VS. VILLAGE OF LOMBARD**

**Collin W. Gray's Rausch vs the Village of Lombard time**

<b><u>Date</u></b>	<b><u>Hours</u></b>	<b><u>Description</u></b>
4/19/21	1.0	Collin W. Gray marked pages in Groundwater Control and Dewatering by Patrick Powers and Adrian sent copy to Jason Guisinger by email
4/19/21	4.0	Reading 3 depositions – Collin W. Gray, Garrett W. Gray and William Walton and read GEI Report
4/26/21	5.0	Collin W. Gray reading 3 other depositions – Ray Schwab, John Caruso And David Lourie
4/28/21	5.0	Collin W. Gray reading Donn Firnbach's Daily Field Reports
5/4/21	5.0	Collin W. Gray reading 3 other depositions – William Rausch, Mark Shallhorn and Tony Kiefer
5/10/21	3.0	Collin W. Gray reading Terracon Tony Kiefer Repot dated 12/5/19
5/11/21	9.0	Collin W. Gray Geohydraulic Calculations based on Well #6 flow meter Readings and Water Head Requirements of 12/7/16 from Donn Firnbach's notes
5/12/21	3.0	Collin W. Gray checking his calculations of groundwater flow from the Donn Firnbach notes and the 12/7/16 Kelley Dewatering Head Measurements
5/14/21	4.0	Collin W. Gray started writing Synopsis #1 report
5/17/21	9.0	Collin W. Gray wrote remainder of first draft of Synopsis #1 report Dated 5/17/21
5/18/21	1.0	Collin W. Gray checking word processing on May 17, 2021 Synopsis #1 Report for Lombard Rte. 53 Pumping Station
5/19/21	4.0	Collin W. Gray edited May 17, 2021 Synopsis Report #1 and reread Donn Firnbach Daily Field Reports and Mark Schallhorn deposition And then revised Synopsis Report
5/21/21	1.0	Collin W. Gray proofread Adrian Mirsky retyped Synopsis Report #2
5/24/21	2.0	Collin W. Gray final alterations to Synopsis #2 report dated 5/24/2021



**RAUSCH INFRASTRUCTURE VS. VILLAGE OF LOMBARD**

<b><u>Date</u></b>	<b><u>Hours</u></b>	<b><u>Description</u></b>
5/25/21	4.5	Collin W. Gray & Garrett W. Gray at KTJ Law Jason Guisinger office Orland Park Office 9:30AM – 2:00PM – Going over trial data and Strategy
6/1/21	1.0	Collin W. Gray received from Ray Schwab the original base flow in the old pumping station of 2000 gpm – base flow then Collin W. Gray changed the total flow including the 3470 gpm – Deep Well Flow total flow + the 2000 gpm in the 5/24/21 Synopsis #2 Report and Collin W. Gray had Adrian revise the 5/24/21 revision and send out with 5/24/21 date.
6/6/21	3.0	Collin W. Gray gong over various trial items with Garrett W. Gray

**Collin W. Gray's Total Time 64.5 hours – Principal Engineer**

**Garrett Gray's Rausch vs the Village of Lombard time**

<b><u>Date</u></b>	<b><u>Hours</u></b>	<b><u>Description</u></b>
4/12/21	0.50	Phone call with Ray Schwab regarding case update
4/14/21	1.50	Received GEI June 26, 2020 letter report from Jason Guisinger (JG) of KTJ Law, Received and download Donn Firnbach DFRs and photos and videos from JG, begin reviewing GEI report
4/16/21	6.75	Finish review of GEI report, read SEECO report and compare, Read CWG and GWG depositions per JG to refresh knowledge for case
4/19/21	2.75	Phone conversation with Jason Guisinger of KTJ Law on case, Read Rausch Change of conditions letter and pull coarse gravel samples for attorney for visual comparison of gravel vs cobbles.
4/26/21	7.50	Phone call with Jason Guisinger, Emails to Jason for additional depositions, Received and download Depositions—Rausch, Lourie, Kiefer and review them all, Review Donn Firnbach DFRs and outline them
4/27/21	5.0	Continue review of Donn Firnbach DFRs and outline them (highlighting when steel sheet piling driven, what dates pumps shut off & turned on, when wet well flooded, when water below excavation, measured flow, etc. along the time line of construction).
4/28/21	7.0	Finish review of Donn Firnbach DFRs and outline them, Read Rausch, Lourie and Kiefer Depositions

**RAUSCH INFRASTRUCTURE VS. VILLAGE OF LOMBARD**

<b><u>Date</u></b>	<b><u>Hours</u></b>	<b><u>Description</u></b>
4/30/21	1.50	Finish Reading above mentioned Depositions
5/3/21	0.25	Download Depositions Schallhorn, Walton, Caruso and Schwab and 2019 Terracon report from Jason Guisinger
5/6/21	1.0	Begin Reading Depositions downloaded on 5/3/21
5/12/21	7.50	Continue to Read 5/3/21 downloaded Depositions, Make notes/comments
5/13/21	7.50	Finish Reading Depositions, Review December 2019 Terracon Report, Make notes/comments
5/14/21	2.50	Check CWG Flow calculations based on information from Donn Firnbach DFRs and diagrams
5/17/21	3.0	Proofread first draft of SEECO CWG Synopsis letter and attached Calcs and Revisions, emails to Jason Guisinger
5/18/21	3.5	Call to JG, Reschedule of pre-trial meeting to 5/25/21 at KTJ Law offices in Orland Park, Review Rausch dewatering submittals, their calculations and their deficient well components/features
5/19/21	3.0	Continue to review all Rausch dewatering submittals and calculations and why they were rejected by SEECO
5/21/21	1.0	Calculations review, Email to JG
5/24/21	1.0	Review of CWG Synopsis report & draw Q diagram
5/25/21	4.5	CWG & GWG pre-trial meeting at the KTJ LAW offices in Orland Park with Jason Guisinger and Howie Jablecki
5/25/21	1.0	Review SEECO DFRs for timeline (dates when wet well bottom dry and passed inspection, poured mud slab) and look to see why pumps left on for so long per JG of KTJ Law)
5/28/21	1.0	Begin to read all SEECO memos per JG of KTJ Law
6/1/21	1.50	Phone call with JG of KTJ Law
6/2/21	8.0	Read all SEECO memos, & transmittals during project as instructed by Jason Guisinger in order to familiarize preparation for testimony, Phone call with JG of KTJ Law (1.50 hours)
6/3/21	9.5	Read all additional project memos, transmittals and submittals during project as instructed by Jason Guisinger to familiarize preparation for testimony, Phone call with JG of KTJ Law (1.50 hours)

**RAUSCH INFRASTRUCTURE VS. VILLAGE OF LOMBARD**

<b><u>Date</u></b>	<b><u>Hours</u></b>	<b><u>Description</u></b>
6/4/21	6.5	Meet with Jason Guisinger at KTJ Law offices at 7 AM for pre-trial preparation (1.50 hours), re-read of GEI Report, Lourie Report, Terracon reports as instructed by Jason Guisinger in preparation for testimony, Phone call with JG of KTJ Law (1.50 hours)
6/5/21	5.0	Re-read depositions, SEECO Geotech report, SEECO memos and applicable transmittals per Jason Guisinger in preparation for testimony, Review Firnbach DFRs and subsequent notes, and rejected dewatering submittals and why they were rejected
6/6/21	6.25	Review trial items with CWG of SEECO consultants, Inc., Phone call with JG of KTJ Law (1.25 hours), Scan, colorize and email a deep well cone of depression diagram to JG per his request.
6/9/21	5.0	Testify at Trial in DuPage County Court (Portal to Portal trip)

**Garrett Gray's Total Time 111 hours – Project Engineer**

**Adrian Mirsky Rausch vs the Village of Lombard time**

<b><u>Date</u></b>	<b><u>Hours</u></b>	<b><u>Description</u></b>
4/15/21	2.25	Download/print out depositions twice – Collin W. Gray and Garrett W. Gray
4/16/21	1.0	Download/print out depositions twice – Collin W. Gray and Garrett
4/19/21	0.5	Scan & email Groundwater information to attorney
4/26/21	2.0	Print 2 copies of 2 depositions & report 172, type notes for Garrett
4/28/21	1.25	Reprint old Daily Field Reports for Collin W. Gray to get data from
5/4/21	1.5	Download, print new depositions twice
5/7/21	0.25	Email Jason Guisinger requesting Kiefer and Norton information
5/10/21	0.5	Download/print Terracon 12/5/19 Report twice
5/14/21	2.5	Reprint old Daily Field Reports for Collin W. Gray, begin typing of Synopsis Report
5/17/21	2.0	Revisions of Synopsis Report (#2 through #4) and start collecting/collating backup

**RAUSCH INFRASTRUTCTURE VS. VILLAGE OF LOMBARD**

<b><u>Date</u></b>	<b><u>Hours</u></b>	<b><u>Description</u></b>
5/18/21	1.25	Final of Synopsis Report, email with 2 hard copies for meeting
5/21/21	3.0	Major additions to Synopsis, 2 additional pages to scan into the backup, email Jason Guisinger the revised report
5/24/21	1.0	More alterations on the Synopsis, scan/email to Jason Guisinger and make 3 hard copies
5/25/21	0.25	Make copies from the Groundwater book and print old Daily Field Reports
5/27/21	0.5	Peruse old Daily Field Reports for information Collin W. Gray requested
6/1/21	0.25	More alterations and additions to the Synopsis
6/2/21	0.75	Put Garrett Gray's backup in order
6/3/21	0.25	Typing for Garrett Gray

**Adrian Mirsky's Total Time 21 hours – Secretary (Technical Typist)**

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