

1 Kelly A. Aviles (SBN 257168)  
2 LAW OFFICES OF KELLY AVILES  
3 1502 Foothill Blvd., #103-140  
4 La Verne, California 91750  
5 Telephone: (909) 991-7560  
6 Facsimile: (909) 991-7594  
7 Email: kaviles@opengovlaw.com

8 Attorneys for Petitioner  
9 FIRST AMENDMENT COALITION

**ELECTRONICALLY FILED**  
Superior Court of California,  
County of San Diego  
**12/15/2014** at 04:13:37 PM  
Clerk of the Superior Court  
By Rachel Harmon, Deputy Clerk

10  
11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
12 **FOR THE COUNTY OF SAN DIEGO**

13 FIRST AMENDMENT COALITION, a ) Case No.: 37-2014-00042285-CU-WMA-CTL  
14 non-profit organization, )  
15 ) **VERIFIED PETITION FOR WRIT OF**  
16 ) **MANDATE ORDERING**  
17 ) **COMPLIANCE WITH THE**  
18 ) **CALIFORNIA PUBLIC RECORDS**  
19 ) **ACT; COMPLAINT FOR**  
20 ) **DECLARATORY AND INJUNCTIVE**  
21 ) **RELIEF; EXHIBITS A THROUGH D.**  
22 )  
23 ) *[Cal. Gov't. Code Section 6250 et seq.]*  
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Petitioner/Plaintiff FIRST AMENDMENT COALITION seeks a writ of mandate, injunctive and declaratory relief under California Code of Civil Procedure sections 1085 and 1060 and Government Code sections 6258 and 6259. In this verified Petition, Petitioner alleges as follows:

**INTRODUCTION**

1. The surveillance of U.S. citizens is a matter of great public concern and has been an issue of national debate. In this Petition, Petitioner FIRST AMENDMENT COALITION asks this Court to issue a writ of mandate, ordering the CITY OF SAN

1 DIEGO and/or the SAN DIEGO POLICE DEPARTMENT to disclose documents  
2 containing information about their possession and use of International Mobile  
3 Subscriber Identity Catchers (IMSI-catcher).

4 2. Stingray is the brand name for IMSI-catcher devices manufactured by  
5 Harris Corporation.

6 3. Cellular service providers provide wireless cell phone service through a  
7 series of cell sites or towers. Cell phones in the area then transmit data to the cell  
8 tower, including the cellphone's unique numeric identifier (the ISMI number), as well  
9 as the cell site code, which identifies its location.

10 4. Stingrays work by emulating a cellphone tower, forcing cell phones to  
11 register their location and send identifying information to the Stingray, instead of the  
12 real cell phone towers in the area. These devices are capable of locating a cell phone  
13 signal with extraordinary precision, but do so in an indiscriminate manner, scooping up  
14 information from all cell phones, smartphones, and other devices that use cell or mobile  
15 technology within the Stingray's vicinity. Stingrays can track cell phones whenever a  
16 phone in range is turned on, not just when the phone is making or receiving calls.

17 5. Serious legal questions have been raised about the legality of Stingrays  
18 because they capture information from all cell phones in the vicinity, not just  
19 information from the cell phone of the target of an investigation.

20 6. Petitioner FIRST AMENDMENT COALITION has become concerned  
21 about the use, and potential abuse, of this technology as it has proliferated in recent  
22 years from a surveillance device used mainly by the FBI and a handful of federal  
23 agencies to a device used by local police departments across the country. Petitioner has  
24 assisted multiple journalists and news organizations whose reporting about police use  
25 of Stingrays has been frustrated by denial of public records requests. In October 2014,  
26 Petitioner became aware that the San Diego Police Department had denied virtually all  
27 of a journalist's recent request for public records concerning the Department's use of  
28 the Stingray. Believing that the Department's sweeping exemption claims were legally

1 indefensible, Petitioner proceeded to file its own public records request—the request at  
2 issue in this case—with the San Diego Police Department, seeking essentially the same  
3 records that had been denied the journalist.

4 7. In response to the Request, the SAN DIEGO POLICE DEPARTMENT  
5 provided a single document, a heavily redacted invoice for the purchase of Stingray. The  
6 SAN DIEGO POLICE DEPARTMENT said it was withholding the redacted portion of  
7 the invoice, but declined to say whether it was withholding additional records,  
8 responsive to the request.

9 8. Petitioner FIRST AMENDMENT COALITION now brings this action to  
10 compel the disclosure of this information.

11 **THE PARTIES**

12  
13 9. Petitioner/Plaintiff FIRST AMENDMENT COALITION (“Petitioner” or  
14 “FAC”) is a nonprofit organization (incorporated under California’s non-profit law and  
15 tax exempt under 501(c)(3) of the Internal Revenue Code) that is dedicated to freedom  
16 of expression, resisting censorship of all kinds, and to promotion of the “people’s right  
17 to know” about their government so that they may hold it accountable. FAC is  
18 supported mainly by grants from foundations and contributions from individuals, but  
19 receives some of its funding from for-profit news media, law firms organized as  
20 corporations, and other for-profit companies.

21 10. Respondent/Defendant CITY OF SAN DIEGO (“City”) and the SAN  
22 DIEGO POLICE DEPARTMENT (“Police Department”) (collectively “Respondents”),  
23 are local agencies, subject to the California Public Records Act, pursuant to  
24 Government Code section 6252(a). The City’s main office is at 202 “C” Street, San  
25 Diego, California, 92101. The Police Department headquarters are located at 1401  
26 Broadway, San Diego, California, 92101.

27 **JURISDICTION AND VENUE**

1           11. This Court has jurisdiction over this matter pursuant to Code of Civil  
2 Procedure sections 1085 and 1060 and Government Code sections 6258 and 6259.

3           12. Venue is proper in this court as Respondents are located within the  
4 County of San Diego and the acts and events giving rise to the claims occurred, in part,  
5 in the County of San Diego.

6   **FACTS SUPPORTING THE CAUSE OF ACTION**

7  
8           13. On October 8, 2014, Peter Scheer, Executive Director of FAC, submitted a  
9 CPRA Request (the “Request”) to Jericho Salvador, who acts as CPRA Liaison for the  
10 Police Department. A true and correct copy of the Request is attached hereto as  
11 **Exhibit A** and incorporated herein by reference.<sup>1</sup> The Request sought documents  
12 related to the Police Department’s purchase and use of cellular phone surveillance  
13 devices, known as IMSI-catchers or Stingrays. Specifically, FAC’s request sought:

14                   1) Records pertaining to the police department’s possession and use of a  
15 cellular phone surveillance device manufactured by Harris Corp. and  
16 referred to as an IMSI-catcher (International Mobile Subscriber Identity)  
or Stingray. These records should include:

17                           (a) emails, purchasing orders, receipts, grant applications and  
18 training materials; and [sic]

19                           b) documents sufficient to show guidelines, procedures, or  
20 restrictions on the San Diego Police Department’s use of the device;

21                           c) for the past six months, copies of any declarations/affidavits,  
22 motions, forms or other legal documents submitted to a judge or  
magistrate to obtain judicial authorization for use of the device.

23           14. On October 14, 2014, Mr. Salvador responded to the Request. Attached  
24 hereto as **Exhibit B** is a true and correct copy of the Response. Along with the  
25 Response, the Police Department produced one document, Purchase Order  
26 \_\_\_\_\_

27 <sup>1</sup> All Exhibits are true and correct copies and are incorporated into this petition as if set forth in  
28 full.

1 4500038491, a true and correct copy of which is attached hereto as **Exhibit C**. The  
2 purchase order was redacted, which Mr. Salvador claimed was necessary to “protect  
3 information that would reveal security or intelligence information, and exempt from  
4 disclosure pursuant to Section 6254(f).” Alternatively, he claimed that “the  
5 information is exempt from disclosure pursuant to Section 6254(k) and the  
6 department claims confidentiality per Evidence Code section 1040.” Finally, he denied  
7 the remainder of the request, stating that “even assuming such documents exist, they  
8 would be exempt from public disclosure under the same statutes cited above.”

9 15. Mr. Scheer responded to Mr. Salvador the same day, asking that they  
10 “state which of the other requested records do, in fact, exist” because FAC has “a right  
11 to know whether records responsive to [its] request have been withheld.” Mr. Scheer  
12 also requested that Mr. Salvador provide the factual basis for its claim of  
13 confidentiality pursuant to Evidence Code section 1040, including the language of any  
14 confidentiality agreement with any third party. A true and correct copy of Mr.  
15 Scheer’s October 14, 2014 response to Mr. Salvador is attached hereto as **Exhibit D**.

16 16. Mr. Scheer never received any response from Mr. Salvador or on behalf  
17 of the Police Department to his October 14<sup>th</sup> email.

18 **CAUSE OF ACTION**

19 **FOR VIOLATIONS OF THE CALIFORNIA PUBLIC RECORDS ACT**

20 (RELIEF PURSUANT TO GOV. CODE § 6258; CODE CIV. PROC. §§ 1060, 1085)

21  
22 17. Petitioner hereby realleges and incorporates herein by this reference  
23 Paragraphs 1 through 16 of this Petition as though set forth herein in full.

24 18. Government Code section 6252(e) defines "**public records**" as “any  
25 writing containing information relating to the conduct of the public's business  
26 prepared, owned, used, or retained by any state or local agency regardless of physical  
27 form or characteristics....

1           19. Government Code section 6253, sets forth, in pertinent part, a public  
2 agency's duties to respond to a CPRA Request:

3           (c) Each agency, upon a request for a copy of records, shall, within 10 days  
4 from receipt of the request, determine whether the request, in whole or in  
5 part, seeks copies of disclosable public records in the possession of the  
6 agency and shall promptly notify the person making the request of the  
7 determination and the reasons therefore. In unusual circumstances, the  
8 time limit prescribed in this section may be extended by written notice by  
9 the head of the agency or his or her designee to the person making the  
10 request, setting forth the reasons for the extension and the date on which a  
11 determination is expected to be dispatched. No notice shall specify a date  
12 that would result in an extension for more than 14 days. When the agency  
13 dispatches the determination, and if the agency determines that the  
14 request seeks disclosable public records, the agency shall state the  
15 estimated date and time when the records will be made available.

16           ...¶...

17           (d) Nothing in this chapter shall be construed to permit an agency to delay  
18 or obstruct the inspection or copying of public records.

19           The notification of denial of any request for records required by Section  
20 6255 shall set forth the names and titles or positions of each person  
21 responsible for the denial.

22           20. Government Code section 6255 requires that Respondents "justify  
23 withholding any record by demonstrating that the record in question is exempt under  
24 express provisions of this chapter or that on the facts of the particular case the public  
25 interest served by not disclosing the record clearly outweighs the public interest served  
26 by disclosure of the record."

27           21. The documents requested by FAC relate to the conduct of the public's  
28 business and were prepared, owned, used or retained by the Police Department.  
Therefore, the documents are public records pursuant to Government Code section  
6252(e).

          22. The Police Department has claimed that the responsive public records, or  
portions thereof, are exempt from disclosure because they contain information which

1 would reveal security or intelligence information, and are exempt pursuant to  
2 Government Code sections 6254(f), 6254(k), and Evidence Code section 1040.

3 23. Petitioner is informed and believes, and on that basis, alleges that  
4 additional documents exist that are responsive to its Request and do not meet the  
5 requirements set forth in relevant statutes or case law for assertion of any of the  
6 claimed exemptions.

7 24. Petitioner is informed and believes, and on that basis alleges that the  
8 information redacted in Purchase Order 4500038491 does not meet the requirements  
9 set forth in relevant statutes or case law for assertion of any of the claimed exemptions.

10 25. Petitioner alleges that Respondents failed to comply with the CPRA by  
11 failing and refusing to respond to its Request as required by Government Code section  
12 6253. Namely, Petitioner alleges that Respondents violated the CPRA by failing and  
13 refusing to notify Petitioner whether it possesses additional responsive documents, and,  
14 if so, the factual basis for its claimed exemptions concerning such documents.

15 26. The People of California have elevated the right to open government to  
16 one protected by their State Constitution. The California Constitution, Article 1, Section  
17 3, Paragraphs (a) - (b) state:

18 The people have the right to instruct their representatives, petition  
19 government for redress of grievances, and assemble freely to consult for  
20 the common good.

21 The people have the right of access to information concerning the conduct  
22 of the people's business, and, therefore, the meetings of public bodies and  
23 the writings of public officials and agencies shall be open to public  
24 scrutiny.

25 A statute, court rule, or other authority, including those in effect on the  
26 effective date of this subdivision, shall be broadly construed if it furthers  
27 the people's right of access, and narrowly construed if it limits the right of  
28 access.

27 27. Petitioner has exhausted its administrative remedies. Petitioner has  
28 requested copies of unredacted, disclosable public records from Respondents, but

1 Respondents have failed to provide access to those public records. The only plain,  
2 speedy, and adequate remedy left to Petitioner is the relief provided by Government  
3 Code § 6258.

4 28. Government Code § 6258 provides:

5 Any person may institute proceedings for injunctive or declarative relief or  
6 writ of mandate in any court of competent jurisdiction to enforce his or  
7 her right to inspect or to receive a copy of any public record or class of  
8 public records under this chapter.”

9 29. Government Code § 6259 provides:

10 Whenever it is made to appear by verified petition to the superior court of  
11 the county where the records or some part thereof are situated that certain  
12 public records are being improperly withheld from a member of the public,  
13 the court shall order the officer or person charged with withholding the  
14 records to disclose the public record or show cause why he or she should  
15 not do so. The court shall decide the case after examining the record in  
16 camera, if permitted by subdivision (b) of Section 915 of the Evidence  
17 Code, papers filed by the parties and any oral argument and additional  
18 evidence as the court may allow.

19 30. Code of Civil Procedure § 1060 provides:

20 Any person interested ... who desires a declaration of his or her rights or  
21 duties with respect to another ... may, in cases of actual controversy  
22 relating to the legal rights and duties of the respective parties, bring an  
23 original action or cross-complaint in the superior court for a declaration of  
24 his or her rights and duties in the premises, including a determination of  
25 any question of construction or validity arising under the instrument or  
26 contract. He or she may ask for a declaration of rights or duties, either  
27 alone or with other relief; and the court may make a binding declaration of  
28 these rights or duties, whether or not further relief is or could be claimed  
at the time....”

31. Petitioner has demonstrated that an actual controversy exists between  
the parties regarding Respondents’ responsibility to disclose records under the CPRA.

32. Respondents have a ministerial duty to perform according to the laws of  
State of California, including the CPRA.

33. Petitioner has an interest in having the laws executed and public duties  
enforced and, therefore, has a beneficial interest in the outcome of the proceedings.



1           34. Petitioner has a clear, present, and legal right to Respondents'  
2 performance of their ministerial duties, as required by the CPRA.

3           35. Respondents have a present legal duty and present ability to perform its  
4 ministerial duties, as required by the CPRA.

5           36. Respondents have failed to perform their ministerial duties as required  
6 by the CPRA.

7           37. Through this action, Petitioner seeks no greater relief than would be  
8 afforded to any other member of the public.

9           38. Therefore, this Court should find that Respondents violated the CPRA by  
10 failing and refusing to notify Petitioner whether additional documents responsive to  
11 the Request exist and identify the factual basis underlying the claimed exemptions.  
12 Additionally, Petitioner requests that this Court order Respondents to identify all  
13 responsive records that are being withheld, and to release both an unredacted version  
14 of the Invoice No. 4500038491 and copies of all responsive records.

15 **WHEREFORE, PETITIONER PRAYS AS FOLLOWS:**

16  
17           1. That after a trial of this action, to be held on notice, this Court should  
18 issue a declaration that:

- 19           (a) The records requested by Petitioner are public records;  
20           (b) The claimed exemptions are not applicable to the public records  
21 requested by Petitioner; and,  
22           (c) Respondents CITY OF SAN DIEGO and/or the SAN DIEGO  
23 POLICE DEPARTMENT violated the California Public Records  
24 Act by:  
25                   (i) refusing to release unredacted, responsive public records  
26 requested by Petitioner; and,  
27  
28

1 (ii) failing to notify Petitioner of whether responsive records  
2 exist and identify the factual basis for the withholding of  
3 any responsive records.  
4

5 2. Issue a writ of mandate ordering Respondents CITY OF SAN DIEGO  
6 and/or the SAN DIEGO POLICE DEPARTMENT to perform as required by the  
7 California Public Records Act by releasing both an unredacted copy of Invoice No.  
8 4500038491 and all responsive public records; and,  
9

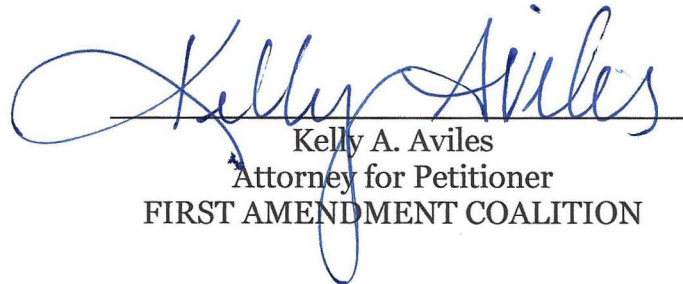
10 3. That Petitioner/Plaintiff FIRST AMENDMENT COALITION recover  
11 attorneys' fees incurred in this action pursuant to Government Code Section 6259  
12 and/or Code of Civil Procedure Section 1021.5;  
13

14 4. For an award of costs incurred in this action; and,  
15

16 5. For such other and further relief as the court deems just and proper.  
17

18 DATED: December 12, 2014

LAW OFFICES OF KELLY A. AVILES

19  
20  
21   
22 Kelly A. Aviles  
23 Attorney for Petitioner  
24 FIRST AMENDMENT COALITION  
25  
26  
27  
28

**VERIFICATION**  
(C.C.P. §§ 446 and 2015.5)

STATE OF CALIFORNIA, COUNTY OF MARIN,

I, Peter Scheer, am the Executive Director for FIRST AMENDMENT COALITION, Petitioner/Plaintiff in the above-entitled action or proceeding. I have read the foregoing PETITION FOR WRIT OF MANDATE ORDERING COMPLIANCE WITH THE CALIFORNIA PUBLIC RECORDS ACT; COMPLAINT FOR DECLARATORY AND, INJUNCTIVE RELIEF; EXHIBITS A THROUGH D and know the contents thereof, and I certify that the same is true and correct of my own knowledge, except as to those matters which are therein stated upon my information and belief, and as to those matters I believe it to be true.

This Verification was executed on December 12, 2014, at San Rafael, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

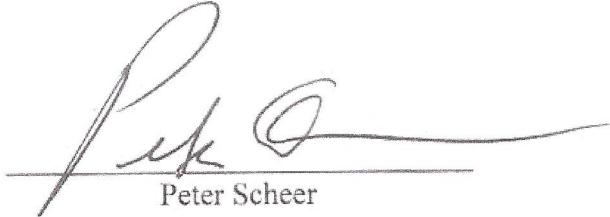
  
Peter Scheer

Exhibit A

From: Peter Scheer <[pscheer@firstamendmentcoalition.org](mailto:pscheer@firstamendmentcoalition.org)>  
Date: Wed, Oct 8, 2014 at 1:52 PM  
Subject: Public Records Request / San Diego PD  
To: [jsalvador@pd.sandiego.gov](mailto:jsalvador@pd.sandiego.gov)

Jericho Salvador, Officer  
Chiefs' Office/CPRA Liaison  
San Diego Police Department  
1401 Broadway, San Diego CA 92101  
(619) 531-2180  
[jsalvador@pd.sandiego.gov](mailto:jsalvador@pd.sandiego.gov)

This is a public records request pursuant to the Public Records Act, Gov. Code sec. 6250 et seq., and Article 1, sec. 3(b), of the California Constitution. It is submitted on behalf of the First Amendment Coalition, a nonprofit legal organization with offices in San Rafael, CA. We request:

1) Records pertaining to the police department's possession and use of a cellular phone surveillance device manufactured by Harris Corp. and referred to as an IMSI-catcher (International Mobile Subscriber Identity) or Stingray. These records should include:

- a) emails, purchasing orders, receipts, grant applications and training materials; and
- b) documents sufficient to show guidelines, procedures, or restrictions on the San Diego Police Department's use of the device;
- c) for the past six months, copies of any declarations/affidavits, motions, forms or other legal documents submitted to a judge or magistrate to obtain judicial authorization for use of the device.

Please note that the First Amendment Coalition is aware that the police department recently denied (with the exception of one heavily redacted purchase order) a similar public records request submitted by Jessica Glenza, a reporter for the Guardian news organization.

We believe that denial was improper because the claimed exemptions do not apply.

If you would like to discuss this records request, please give me a call. Also, please obtain our consent to any copying costs, chargeable to FAC, that exceed \$50.

Thank you for your consideration of this request.

Sincerely,

Peter Scheer

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Peter Scheer | Executive Director | First Amendment Coalition [pscheer@firstamendmentcoalition.org](mailto:pscheer@firstamendmentcoalition.org) |  
415.886.7081  
534 4th St. #B | San Rafael, CA 94901  
[www.firstamendmentcoalition.org](http://www.firstamendmentcoalition.org)

# Exhibit B

From: Salvador, Jericho <[jsalvador@pd.sandiego.gov](mailto:jsalvador@pd.sandiego.gov)>  
Date: Tue, Oct 14, 2014 at 3:45 PM  
Subject: Public Records Request  
To: Peter Scheer <[pscheer@firstamendmentcoalition.org](mailto:pscheer@firstamendmentcoalition.org)>, "[pscheer@gmail.com](mailto:pscheer@gmail.com)" <[pscheer@gmail.com](mailto:pscheer@gmail.com)>

Dear Mr. Scheer,

I am responding to your public records request to the San Diego Police Department dated October 8, 2014.

Attached is a copy of one responsive document, Purchase Order 4500038491. The document has been redacted to protect information that would reveal security or intelligence information, and is exempt from disclosure pursuant to California Government Code section 6254(f).

Alternatively, the information is exempt from disclosure pursuant to Section 6254(k) and the Department claims confidentiality per Evidence Code section 1040.

As to the other items contained in your request, even assuming such documents exist, they would be exempt from public disclosure under the same statutes cited above.

Sincerely,

Jericho Salvador, Officer

Chiefs' Office/ CPRA Liaison

(619) 531-2180

# Exhibit C





**City of San Diego  
PURCHASE ORDER**

**PO No. 4500038491**

<b>Ship To:</b> Center ID: OHS2 OFFICE OF HOMELAND SECURITY SEE NOTES SAN DIEGO CA 92101-4639	<b>Bill To:</b> OFFICE OF HOMELAND SECURITY 1010 SECOND AVENUE, STE 1600 SAN DIEGO CA 92101-4906	<b>Date:</b> 12/12/2012 Page 1 of 2
		<b>Billing Contact:</b> LINDA KOOZIN
		<b>Telephone:</b>

<b>Vendor:</b> Harris Corporation 407 John Rodes Blvd Melbourne FL 32934-8059	<b>Terms:</b> within 30 days Due net
<b>Vendor ID:</b> 10022850	<b>Delivery Terms:</b> Destination
<b>Phone:</b> 321-309-7459	<b>Deliver on or before:</b>
	<b>Buyer:</b> Darlene Montljo
	<b>Telephone:</b> 619-236-6248

Line #	Item ID/Description	Quantity/UM	Unit Price	Extended Price
1			USD	USD
2			USD	USD
3			USD	USD
4			USD	USD
5			USD	USD
<p>Bill to: City of San Diego - Office of Homeland Security 1010 2nd Avenue, Suite 1600 San Diego, CA 92101 ATTN: Gary Lane</p>				

<p><b>Notes:</b> The Terms and Conditions of this Purchase Order are available at <a href="http://sandiego.gov/purchasing/">http://sandiego.gov/purchasing/</a></p>	<p><b>SEE LAST PAGE FOR TOTAL</b></p>
	<p style="text-align: center;"><b>IMPORTANT!</b></p> <p>To ensure prompt payments, PO # must appear on all shipments and invoices, and all invoices must be directed to <i>Billing</i> Contact person at <i>Bill-To</i> address listed above</p>



# City of San Diego PURCHASE ORDER

PO No. **4500038491**

<b>Ship To:</b> Center ID: OHS2 OFFICE OF HOMELAND SECURITY SEE NOTES SAN DIEGO CA 92101-4639	<b>Bill To:</b> OFFICE OF HOMELAND SECURITY 1010 SECOND AVENUE, STE 1500 SAN DIEGO CA 92101-4906	Date: 12/12/2012 Page 2 of 2 <b>Billing Contact:</b> LINDA KOOZIN <b>Telephone:</b>
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<b>Vendor:</b> Harris Corporation 407 John Rodes Blvd Melbourne FL 32934-8059  Vendor ID: 10022850 Phone: 321-309-7459	<b>Terms:</b> within 30 days Due net <b>Delivery Terms:</b> Destination Deliver on or before:  <b>Buyer:</b> Darlene Montljo <b>Telephone:</b> 619-236-6248
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Line #	Item ID/Description	Quantity/UM	Unit Price	Extended Price
	Notes:			
<div style="font-size: 48px; opacity: 0.3; transform: rotate(-30deg);">FILE COPY</div>				

<b>Notes:</b> The Terms and Conditions of this Purchase Order are available at <a href="http://sandiego.gov/purchasing/">http://sandiego.gov/purchasing/</a>	Line Item Total \$ 33,000.00 Tax \$ 0.00 <b>PO Total \$ 33,000.00</b>
	<b>IMPORTANT!</b>
	To ensure prompt payments, PO # must appear on all shipments and invoices; and, all invoices must be directed to <i>Billing Contact</i> person at <i>Bill-To</i> address listed above

# Exhibit D

From: Peter Scheer <[pscheer@firstamendmentcoalition.org](mailto:pscheer@firstamendmentcoalition.org)>  
Date: Tue, Oct 14, 2014 at 5:11 PM  
Subject: Re: Public Records Request  
To: "Salvador, Jericho" <[jsalvador@pd.sandiego.gov](mailto:jsalvador@pd.sandiego.gov)>

Mr. Salvador,

Thank you for your Oct. 14 response to my public records request.

Your response states the grounds for redactions to the purchase order, the sole produced document. Your letter then states:

"As to the other items contained in your request, even assuming such documents exist, they would be exempt from public disclosure under the same statutes cited above."

Please state which of the other requested records do, in fact, exist. We have a right to know whether records responsive to our PRA request have been withheld.

Your Oct. 14 response relies (in part) on Evidence Code section 1040 for redactions to the purchase order. Please describe the factual predicate or basis for this claim. If it is a confidentiality agreement with a third-party, please provide us with the language of the confidentiality clause or provision.

Thank you for your cooperation.

Sincerely,  
Peter Scheer

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Peter Scheer | Executive Director | First Amendment Coalition [pscheer@firstamendmentcoalition.org](mailto:pscheer@firstamendmentcoalition.org) |  
415.886.7081  
534 4th St. #B | San Rafael, CA 94901  
[www.firstamendmentcoalition.org](http://www.firstamendmentcoalition.org)