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To: Hon. County Judge & Commissioners Court
CC: Erica Rosales Nigaglioni & Ana Schumacher, Assistant County Attorneys

From: Evette P. Ugues Rodriguez, Assistant County Attorney

Date: February 24, 2025

Re: Legal Determination Concerning Use of Closed Session Under Section 551.0725

Section 551.0725 of the Texas Government Code (Open Meetings Act) authorizes a commissioners court to conduct a closed meeting to deliberate business and financial issues relating to a contract under negotiations, if the following conditions are met:

1. Commissioners Court votes unanimously that deliberation in an open meeting would have a detrimental effect on the position of the commissioners court in negotiations with a third party;
2. The attorney advising the commissioners court issues a written determination that deliberation in an open meeting would have a detrimental effect on the position of the commissioners court in negotiations with a third party; and
3. A tape recording of the proceedings in closed session is made.

This memorandum serves to fulfill the requirement described in number 2.

El Paso County is currently in negotiations with four private Artists regarding an El Paso County Coliseum Public Art Project made pursuant to Chapter 381 of the Texas Local Government Code. The El Paso County Attorney's Office has reviewed the draft agreement and continues to help the Department in negotiating the agreement, but County staff are seeking direction from Commissioners Court regarding the terms of the agreement. The Commissioners Court must be free to critically analyze the terms of the agreement without undermining the County's negotiation position and ultimate ability to reach a final agreement.

As your legal advisor, I have determined that deliberation in an open meeting concerning the terms of the agreement would have a detrimental effect on the position of the Commissioners Court in negotiations with the four private Artists. Thus, I am requesting that Commissioners Court unanimously vote that deliberations in an open meeting would have a detrimental effect on the position of the Commissioners County in the negotiations, and that all said deliberations take place

in closed session. I would further request that Commissioners Court direct the County Clerk to ensure that all proceedings in closed session be recorded.