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To: Hon. County Judge & Commissioners Court
CC: Christina Sanchez, County Attorney & Eddie Sossa, First Assistant, and Erich Morales and Erica Rosales Nigaglioni, Assistant County Attorneys
From: Ana Schumacher, Assistant County Attorney *Ana Schumacher*

Date: September 30, 2024

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 seeking to finalize all negotiations with Schneider Electric Buildings Americas, Inc. regarding an Energy and Construction Services Contract made pursuant to Chapter 302 of the Texas Local Government Code. The El Paso County Attorney's Office seeks to inform the Commissioners Court of the most recently negotiated contract terms as well as providing business and financial information related to the same and the corresponding financing Lease Purchase Agreements. The Commissioners Court must be free to critically analyze business and financial concerns 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 business and financial issues relating to the contract would have a detrimental effect on the position of the Commissioners Court in negotiations with Schneider Electric Buildings Americas, Inc. 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.