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To: Hon. County Judge & Commissioners Court
CC: Erica Rosales Nigaglioni, Assistant County Attorney
From: Christopher Hernandez, Assistant County Attorney 
Date: April 2, 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.

On or around March of 2025, El Paso County began discussions with The University of Texas at El Paso, El Paso Makes, City of El Paso, Workforce Solutions Borderplex, Rio Grande Council of Governments about resources, services and infrastructure designed to address barriers to growth into aerospace and defense markets for local manufacturers and to enable the rapid growth of aerospace and defense technology development and advanced manufacturing in the region. To this end, these entities have discussed forming a coalition and entering into a Memorandum of Understanding to form a coalition, agree on the expectations and benefits of coalition membership and the functioning of the coalition.

Currently, County staff is seeking direction from Commissioners Court regarding terms of the Memorandum of Understanding. The Commissioners Court must be free to critically analyze the terms of the Memorandum of Understanding without undermining the County's negotiation position and ultimate ability to reach a final agreement with each of the groups identified herein.

As your legal advisor, I have determined that deliberation in an open meeting concerning the terms of the Memorandum of Understanding would have a detrimental effect on the position of the Commissioners Court in negotiations with The University of Texas at El Paso, El Paso Makes, City of El Paso, Workforce Solutions Borderplex, Rio Grande Council of Governments. 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



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