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To: Hon. County Judge & Commissioners Court
CC: Erica Rosales Nigaglioni, Assistant County Attorney
From: Ana Schumacher, Assistant County Attorney *Ana Schumacher*
Date: October 21, 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.

On or around 2022, El Paso County entered into numerous ARPA Subrecipient agreements with local non-profits that are set to expire on October 30, 2024. The County must obligate all allocated SLFRF ARPA funds on or before December 31, 2024. The County is currently in negotiations with the following ARPA Subrecipients with regards to allocated but unused funding: Big Brothers Big Sisters of El Paso, Cancer and Chronic Disease Consortium, Candlelighters of West Texas, Desert Spoon Food Hub, El Paso Child Guidance Center, Inc., Medical Center of the Americas Foundation, Paso del Norte Center of Hope, Paso Del Norte Health Information Exchange, Project Arriba, Inc., and Project Vida. County staff is seeking direction from Commissioners Court regarding terms of the aforementioned Subrecipient Agreements as well as providing business and financial information related to the same and the strategic contracting of the remaining funds. 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 with each of the groups identified herein.

As your legal advisor, I have determined that deliberation in an open meeting concerning business and financial issues relating to these contracts would have a detrimental effect on the position of the Commissioners Court in negotiations with Big Brothers Big Sisters of El Paso, Cancer and Chronic Disease Consortium, Candlelighters of West Texas, Desert Spoon Food Hub, El Paso Child Guidance Center, Inc., Medical Center of the Americas Foundation, Paso del Norte Center of Hope, Paso Del Norte Health Information Exchange, Project Arriba, Inc., and Project Vida. Thus, I am requesting that Commissioners Court unanimously vote that deliberations in an open



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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.