

MEMORANDUM

From the desk of *Erica Rosales Nigaglioni*
Assistant County Attorney
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El Paso, Texas 79901

JO ANNE BERNAL
County Attorney

TO: El Paso County Commissioners Court
DATE: May 23, 2022
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.

The Commissioners Court is currently in negotiations with **Endeavors for an El Paso County Migrant Processing Center**. The information to be discussed includes issues involving business and financial information related to those active contract negotiations. This information will include recommendations as to what the County's negotiation position should be, and the Commissioners Court must be free to analyze the business and financial concerns critically without undermining the County's position. Discussing this business and financial information and the County's negotiation position will naturally require a discussion of the different offers and the range of authority in responding to those offers in the attempt to negotiate a final agreement.

As you legal advisor, I have determined that deliberation in an open meeting concerning business and financial issues relating to those negotiations would have a detrimental effect on the position of the Commissioners Court in negotiations. 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.

Erica Rosales Nigaglioni
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Assistant County Attorney