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April 12, 2023

The Honorable Bryan Hughes
Chairman, Senate Committee on State Affairs
P.O. Box 12068
Austin, Texas 78711

Dear Chairman Hughes and Members of the Committee:

On behalf of the City of Houston, I write in opposition to Senate Bill 1034 and ask that this written testimony be included in the formal legislative record for S.B. 1034. The City and I thank the Committee and Chairman for the opportunity to comment regarding this proposed legislation.

My name is Suzanne R. Chauvin. I am Chief of the General Litigation Section of the City of Houston Legal Department. I testify with the City's full authority to speak on its behalf as part of my assigned duties and responsibilities.

The City of Houston opposes S.B. 1034 for the following reasons:

- I. S.B. 1034 WOULD ELIMINATE THE CITY'S RIGHT TO PURSUE NEW OPIOID-RELATED CLAIMS AND WILL HINDER THE CITY'S ABILITY TO USE THE LEGAL PROCESS TO REMEDIATE OTHER PUBLIC NUISANCES IN THE FUTURE.**

S.B. 1034 appears to be a new attempt to extinguish the rights of Texas counties and municipalities to bring, negotiate, or settle public nuisance claims as well as the right to determine where and how any opioid litigation settlement

funds will be allocated. This bill further heavily restricts the scope of what is by common law considered an actionable public nuisance in the state of Texas.

First responders in municipalities and counties throughout Texas have stood on the front lines of the opioid epidemic. Texas law enforcement officers and paramedics have responded to countless overdoses and deaths, and law enforcement has often fought a losing battle to prevent the illegal distribution of opioids. The opioid epidemic has affected people of all ages from the largest Texas cities to the most remote, rural areas of the state. Taxpayers in municipalities have often borne the financial burden of treating victims in these emergency situations.

When the City sued multiple manufacturers and distributors of opioids in 2019, its first cause of action was for the negligent and/or intentional creation of a public nuisance. The City alleged that the defendants knowingly encouraged doctors in and around Houston and Harris County to prescribe, and residents to use, highly addictive opioids for chronic pain even though the defendants knew or should have known that many of those prescription orders were not for a valid medical purpose. The City also alleged that the defendants purposefully interfered with the City's public health, public safety, public peace, public comfort, and public convenience, and contributed to and/or assisted in creating and maintaining a condition harmful to the health and safety of Houston residents, and unreasonably interfered with the peace and comfortable enjoyment of life in violation of Texas law. These harms have taxed the human, medical, public health, law enforcement, and financial resources of Houston and of other cities, towns and counties throughout Texas.

II. S.B. 1034 WOULD PREVENT THE STATE, CITIES AND COUNTIES FROM RECOVERING DAMAGES IN FUTURE HEALTH CARE CRISES OR OTHER SIMILAR PUBLIC NUISANCES.

According to the Texas Comptroller of Public Accounts, Texas currently expects to receive an estimated \$1.6 *billion* from settlement agreements and judgments against opioid manufacturers and distributors.¹ To date, Houston has received

¹ Please see the attached infographic, which may also be found at <https://comptroller.texas.gov/programs/opioid-council/>.

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\$2.2 million in settlement funds from the Texas Trust. S.B. 1034 would prevent recovering further damages from future lawsuits similar to the tobacco and opioid litigation or other, similar public nuisances, which would greatly impede the State's, cities' and counties' ability to abate and recover from those nuisances, which affect citizens throughout Texas.

For these reasons, the City of Houston respectfully opposes S.B. 1034.

Sincerely yours,

/s/ Suzanne R. Chauvin

Suzanne R. Chauvin

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