

1 [Memorandum of Understanding - Retroactive - California Department of State Hospitals and  
2 California Mental Health Services Authority - State Hospital Beds]

3 **Resolution retroactively authorizing the Director of Public Health to sign a California**  
4 **Department of State Hospitals and California Mental Health Services Authority**  
5 **Memorandum of Understanding to facilitate access to mental health treatment and**  
6 **facilitate the transfer of funds to cover San Francisco's obligation to pay for mental**  
7 **health treatment at the California Department of State Hospitals, for a term of one year**  
8 **and nine months, from October 1, 2023, through June 30, 2025, as required by Welfare**  
9 **and Institutions Code, Sections 4330 and 4331; and to authorize the Director of Public**  
10 **Health to enter into any amendments or modifications to the Memorandum of**  
11 **Understanding that the Department determines, in consultation with the City Attorney,**  
12 **that do not materially increase the obligations or liabilities to the City and are**  
13 **necessary to effectuate the purposes of the agreement or this Resolution.**

14  
15 WHEREAS, The California Department of State Hospitals (DSH) has jurisdiction over  
16 all DSH facilities, as defined in Welfare and Institutions Code, Section 4100, including non-  
17 DSH treatment facilities contracted with DSH pursuant to Welfare and Institutions Code,  
18 Section 4361 (hereafter collectively "Hospitals"), excluding community-based restoration of  
19 competency services that are operated by the County; and

20 WHEREAS, Welfare and Institutions Code, Section 4330 requires counties to  
21 reimburse DSH for the use of DSH Hospital beds and services, provided pursuant to the  
22 Lanterman-Petris-Short Act ("LPS", Welfare and Institutions Code, Section 5000 et. seq.) and  
23 in accordance with annual MOUs between DSH and each County acting singly or in  
24 combination with other counties, pursuant to Welfare and Institutions Code, Section 4331; and

1           WHEREAS, The California Mental Health Services Authority (CalMHSA) is a joint  
2 powers authority pursuant to Government Code, Section 6500 et seq. (Joint Exercise of  
3 Powers Act) whose members are counties and cities with mental health programs and San  
4 Francisco is a member county and CalMHSA negotiates the MOU with DSH on behalf of  
5 CalMHSA's members and serves as a liaison for matters of compliance with MOU terms and  
6 conditions; and

7           WHEREAS, The Memorandum of Understanding includes mutual indemnification  
8 provisions under which the California Department of State Hospitals and the City and County  
9 of San Francisco each agree to defend, indemnify, and hold the other and its agencies, their  
10 respective officers, employees and agents, harmless from and against any and all liability  
11 loss, expense, attorneys' fees, or claims for injury or damages arising out of the performance  
12 of this MOU but only in proportion to and to the extent such liability, loss, expense, attorneys'  
13 fees, or claims for injury or damages are caused by or result from the negligent or intentional  
14 acts or omissions; and

15           WHEREAS, A draft of the Memorandum of Understanding is on file with the Clerk of  
16 the Board of Supervisors in File No.\_\_\_\_\_, which is hereby declared to be a part of this  
17 Resolution as if set forth fully herein; now, therefore, be it

18           RESOLVED, That the Board of Supervisors hereby retroactively authorizes the Director  
19 of Health to sign a California Department of State Hospitals and California Mental Health  
20 Services Authority Memorandum of Understanding to facilitate access to mental health  
21 treatment and facilitate the transfer of funds to cover San Francisco's obligation to pay for  
22 mental health treatment at the California Department of State Hospitals, for a term of one year  
23 and nine months, from October 1, 2023, through June 30, 2025, as required by Welfare and  
24 Institutions Code, Sections 4330 and 4331; and

FURTHER RESOLVED, That the Board of Supervisors acknowledges that the Memorandum of Understanding includes mutual indemnification provisions under which each party agrees to defend, indemnify, and hold the other harmless, but only in proportion to and to the extent such liability arises from that party's own negligent or intentional acts or omissions; and

FURTHER RESOLVED, That the Board of Supervisors hereby authorize the Director of Health to enter into any amendments or modifications to the Memorandum of Understanding that the Department determines, in consultation with the City Attorney, that do not materially increase the obligations or liabilities to the City and are necessary to effectuate the purposes of the agreement or this Resolution.

RECOMMENDED

/s/

Daniel Tsai

Director of Health