

1 [Memorandum of Understanding - Retroactive - California Department of State Hospitals and
2 California Mental Health Services Authority - State Hospital Beds - Not to Exceed
\$10,000,000]

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4 **Resolution retroactively authorizing the Director of Health to sign a California**
5 **Department of State Hospitals and California Mental Health Services Authority**
6 **Memorandum of Understanding to facilitate access to mental health treatment and**
7 **facilitate the transfer of funds to cover San Francisco's obligation to pay for mental**
8 **health treatment at the California Department of State Hospitals, for a term of one year**
9 **and nine months, from October 1, 2023, through June 30, 2025, as required by Welfare**
10 **and Institutions Code Sections 4330 and 4331, and for a total not to exceed amount of**
11 **\$10,000,000; and to authorize the Director of Public Health to enter into any**
12 **amendments or modifications to the Memorandum of Understanding that the**
13 **Department determines, in consultation with the City Attorney, that do not materially**
14 **increase the obligations or liabilities to the City and are necessary to effectuate the**
15 **purposes of the agreement or this Resolution.**

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

22 WHEREAS, Welfare and Institutions Code, Section 4330 requires counties to
23 reimburse DSH for the use of DSH Hospital beds and services, provided pursuant to the
24 Lanterman-Petris-Short Act ("LPS", Welfare and Institutions Code Section 5000 et. seq.) and

1 in accordance with annual MOUs between DSH and each County acting singly or in
2 combination with other counties, pursuant to Welfare and Institutions Code, Section 4331; and

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

9 WHEREAS, The parties were unable to reach agreement on the terms and conditions
10 of the MOU for the time period under the MOU until on or around April 15, 2025; and

11 WHEREAS, The San Francisco Department of Public Health (DPH), instructed DSH to
12 begin performance of the MOU, even though there was no written agreement between the
13 parties, with the expectation that the MOU would be formally executed; and

14 WHEREAS, DHS began performing services within the scope and terms of the MOU
15 despite the MOU not being finalized or executed by the parties; and

16 WHEREAS, DPH desires to retroactively execute the MOU for the DSH Hospital beds
17 and other related services for a not to exceed amount of \$10,000,000, thereby ensuring that
18 the expenses incurred by DSH to provide DSH Hospital beds and other related services for
19 SF residents placed at DSH Hospitals between October 1, 2023, through June 30, 2025, are
20 reimbursed; and

21 WHEREAS, The Charter requires City departments to enter a written contract or other
22 instrument including certification by the Controller and approval as to form by the City Attorney
23 in order to bind the City to expend money; and

1 WHEREAS, the DPH seeks approval of the Board of Supervisors to enter into the MOU
2 because DSH has satisfactorily performed the services based on an informal written
3 understanding between the parties for a period of more than 12 months; and

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

12 WHEREAS, The proposed Memorandum of Understanding is on file with the Clerk of
13 the Board of Supervisors in File No._____, which is hereby declared to be a part of this
14 Resolution as if set forth fully herein; now, therefore, be it

15 RESOLVED, That the Board of Supervisors hereby authorizes the Director of Health to
16 retroactively enter into a Memorandum of Understanding with the California Department of
17 State Hospitals and California Mental Health Services Authority to facilitate access to DSH
18 Hospital beds and mental health treatment and facilitate the transfer of funds from
19 Realignment Funds due to the City and County of San Francisco to DSH to cover San
20 Francisco's obligation to pay for DSH Hospital beds and mental health treatment at the
21 California Department of State Hospitals, for a term of one year and nine months, from
22 October 1, 2023, through June 30, 2025, as required by Welfare and Institutions Code,
23 Sections 4330 and 4331, for a total not to exceed amount of \$10,000,000; and

24 FURTHER RESOLVED, That the Board of Supervisors acknowledges that the
25 Memorandum of Understanding includes mutual indemnification provisions under which each

1 party agrees to defend, indemnify, and hold the other harmless, but only in proportion to and
2 to the extent such liability arises from that party's own negligent or intentional acts or
3 omissions; and

4 FURTHER RESOLVED, That the Board of Supervisors hereby authorizes the Director
5 of Health to enter into any amendments or modifications to the Memorandum of
6 Understanding that the Department determines, in consultation with the City Attorney, that do
7 not materially increase the obligations or liabilities to the City and are necessary to effectuate
8 the purposes of the agreement or this Resolution; and, be it

9 FURTHER RESOLVED, That within 30 days of the MOU being fully executed by all
10 parties, the DPH shall provide the final MOU to the Clerk of the Board for inclusion into the
11 official file.

12
13 RECOMMENDED

14
15 _____/s/

16 Daniel Tsai

17 Director of Health