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FIFTH AMENDED DECLARATION OF CONTINUED PUBLIC HEALTH EMERGENCY AND STATE OF EMERGENCY FOR COVID-19

WHEREAS, the Governor, the Lieutenant Governor, the Coronavirus Task Force, and the Coronavirus Working Group remain prepared to take all necessary measures to protect the health, social, and economic welfare of the residents of the Territory of American Samoa; and

WHEREAS, COVID-19 is an infectious disease caused by a new virus that had not been previously identified in humans which causes respiratory illness (like the flu) with symptoms such as a cough, fever, shortness of breath, and in more severe cases, pneumonia and is spread primarily through contact with an infected person when they cough or sneeze, or through droplets of saliva or discharge from the nose; and

WHEREAS, no vaccine or cure for COVID-19 currently exists; and

WHEREAS, the exponential speed at which the coronavirus is being propagated throughout the world is aided by carriers who are asymptomatic and the only surefire method of identifying these purveyors of the coronavirus is through testing and, yet, tests administered in the States and some of the U.S. Territories have been very limited due Test-Kits shortages; and

WHEREAS, as of May 30, 2020, there have been more than 1,752,400 confirmed cases of coronavirus in the United States and Territories with 102,761 registered deaths due to COVID-19; and

WHEREAS, the most vulnerable sector of the population is predominantly within the elderly population, particularly those with underlying and chronic health conditions such as blood disorders, chronic kidney disease, chronic liver disease, cancer, recent pregnancy in the last two weeks, endocrine disorders (e.g. diabetes mellitus), metabolic disorders, heart disease, lung disease including asthma or chronic obstructive pulmonary disease (chronic bronchitis or emphysema) or other chronic conditions associated with impaired lung function or that require home oxygen, and neurological, and neurodevelopment conditions (including disorders of the brain, spinal cord, peripheral nerve, and muscle such as cerebral palsy, epilepsy, stroke, intellectual dystrophy or spinal cord injury; and

WHEREAS, inordinate challenges expose the Territory of American Samoa to epic vulnerabilities subjecting all its residents to unprecedented health, economic, and social risks being remotely located in the South Pacific with Hawaii the nearest United States Jurisdiction 2,300 miles Northeast with connectivity provided solely by Hawaiian Airlines' two flights weekly along with a weekly Cargo flight; and

WHEREAS, American Samoa's total healthcare service delivery infrastructure is comprised of one acute care hospital with only 132 beds (inclusive of the 8 COVID-19 dedicated beds) and four (4) district health clinics with its operating capacity already being exceeded thus precipitating unparalleled fear over its potential collapse if the spread of the covid-19 mirrors the experience of some of the States; and

WHEREAS, our only acute care hospital, Lyndon Baines Johnson Tropical Medical Center, lacks the physical capacity to appropriately respond to epidemics and pandemics and must now divert operating resources to address this emergency need thus causing the potential for medication and health supply shortages and expanding the risk for a health catastrophe; and

WHEREAS, while the Territory of American Samoa has finally been given the ability to conduct tests on island with the acquisition of the Abbot Testing Machine and GeneXpert Machine with 172 tests conducted thus far with all negative results, the total number of test kits on hand of 2,784 is grossly insufficient to support our testing plan targeting the testing of first responders, systematic individuals and then asymptomatic persons, to yield confidence in the effectiveness of our protection and mitigation strategies; and

WHEREAS, the World Health Organization has declared COVID-19 a global public health emergency on January 30, 2020; and

WHEREAS, President Trump declared a National Emergency Concerning COVID-19 on March 11, 2020; and

WHEREAS, the federal government has imposed travel restrictions nationwide and local governments have instituted "social-distancing" policies including shutting down schools and bars and requiring home isolation of vulnerable populations; and

WHEREAS, the rapid spread of COVID-19 disease along with the limited amount of test kits to test the first responders, the vulnerable population, a wider sector of our population (given the asymptomatic nature of the disease) and lack of a vaccine or cure create an imminent threat of outbreak here in American Samoa; and

WHEREAS, previous declarations have been issued for COVID-19, and given its robust nature, the situation necessitates an updated and continued response from the American Samoa Government in order to protect the health of our people; and

WHEREAS, this declaration extends to the entire geographic area of the Territory; and

WHEREAS, the imminent threat of an outbreak in American Samoa constitutes a disaster justifying a continued state of emergency and activating all resources necessary to combat the spread of COVID-19; and

WHEREAS, the request for a Major Disaster Declaration was sent to President Donald Trump on April 13, 2020 and approved on April 17, 2020 allowing access to all federal assistances available for disasters; and

WHEREAS, the State of Hawaii as of May 30, 2020 has now registered 17 fatalities with 639 number of confirmed of cases being the only gateway to American Samoa further increasing our vulnerability; and

WHEREAS, the Territory of American Samoa continues to be blessed for its continued Coronavirus Free Status, since the Presidential Declaration issued on March 13, 2020; and

WHEREAS, it has been projected that COVID-19 infection can come in waves which means more deaths will be anticipated if restrictions are prematurely lifted with consequences far more devastating; and

WHEREAS, there have been recent confirmed reports on the second wave of infection for some of the States consequential to the easing of restrictions; and

WHEREAS, we still have not gained the comprehensive ability to effectively combat the COVID-19 pandemic given the limited number of test kits at our disposal to test first responders, symptomatic individuals, vulnerable population, and asymptomatic carriers of the disease which perpetuates our vulnerability to an outbreak; and

WHEREAS, this declaration is a continuation of previous declarations and fully incorporates the facts set forth in those prior declarations with regard to COVID-19;

THEREFORE, I, Lolo M. Moliga, Governor of American Samoa, declare a continued public health emergency under ASCA 13.0301 et seq. and a state of emergency under ASCA 26.0101 et seq. for COVID-19. The Emergency Operations Center shall continue to be activated to coordinate response efforts.

Pursuant to A.S.C.A. §13.0307 and §26.0105, I further declare that EFFECTIVE IMMEDIATELY:

American Samoa's response will be guided by a color-coded system to meet the changing threat level. The following provides a guideline for escalating measures according to shifting situations. These restrictions will be implemented to the fullest extent possible but also may be subject to alteration as more information becomes available or a COVID-19 case is confirmed.

- **Code Blue**: Minimal social disruption with continued emphasis on social distancing, hygiene, and cough etiquette.

    1. The public is encouraged to use face masks when in public and avoid touching the face, thoroughly wash hands with soap for 20 seconds or use hand sanitizer of more than 70% alcohol. The public is further advised to use the USEPA approved disinfectant products for disinfecting households.

    2. All entry permits will continue to be suspended until further notice.

    3. All Hawaiian Airline Flights will continue to be suspended for an additional 30 days with reconsideration slated for July 1, 2020.

    4. All Samoa Air and Talofa Air Flights are suspended however this restriction will continually be reviewed depending on the COVID-19 status of both countries.

    5. All travelers must provide negative COVID-19 test results within 72 hours before arrival. All non-medical personnel entering AS are subject to Full Quarantine of 14 Days. All returning medical referral patients will be subject to screening and quarantine at the discretion of DOH Physicians but guided by clearly established criteria to determine who is to be Full Quarantined and when the person is to be released from quarantine. For covid-19 related workers, quarantines will not be imposed.

    6. Unnecessary travel to affected foreign countries or US states is strongly being discouraged.

    7. Private flights into the Territory with the sole purpose of dropping off equipment, and supplies will be allowed to land with no one disembarking the plane or to overnight.

    8. All off-island medical referrals to New Zealand and the United States are suspended however, the option will be considered only for medical emergencies and will be at the discretion of LBJ Off-Island Medical Referral Committee.

    9. Medivac Flights for the sole purpose of to picking up critically ill patients approved by the LBJ Off-Island Medical Referral Committee will be allowed however with full adherence to getting tested 72 hours testing for the pilot and the crew before arrival will be allowed to land.

    10. Medivac Flights for the purpose of repatriating our patients sent to New Zealand will comply with the testing protocols documented above and the patient will be tested as will upon arrival followed by required quarantine protocols at LBJ for observation before the Department of Health in collaboration with LBJ agree on the release.

11. U.S. Coast. Guard and other Military flights will be allowed to land however overnight stay will trigger adherence to testing and quarantined protocols at the hotel of stay under the Department of Public Health's close monitoring.

12. All inbound travelers who are US Nationals/Citizens that are local residents and Legal Alien Residents are to show proof of American Samoa residency through local ID, hospital ID, or utility bill. Proof of residency will exempt them from the OK Board process.

13. All other inbound travelers shall have an OK Board issued prior to traveling to American Samoa. OK Board requirements will include submission of copies of itinerary, passport (including stamped pages), payment of $50 fee and effective March 27, 2020, a health clearance from a verifiable physician with proof of a negative COVID-19 test 72 hours prior to arrival in American Samoa. Work related OK Boards will be considered but applications must include verification from employer.

14. All requests are to be routed through the Office of the Attorney General with the approval authority solely vested in the Attorney General and if she is off-island all OK Board requests will be reviewed and approved by the Governor.

15. To protect our supply lines, sustain our food security, and to support the production capacity of our cannery, cargo and fishing vessels are allowed to enter our seaport with full compliance with the following advisories:

    - The clearing of the vessels for entry into the Port will be conducted jointly by the Department of Health and the Department of Port Administration. The Department of Health Director will designate a Physician who will accompany the Department of Port Capitan to board the vessel before it enters our harbor.

    - All clearing parties involved in the health screening and unloading operations must undergo medical screening by the Department Of Health Physician prior to boarding any vessel. Personnel must wear full safety gear (i.e. masks, heavy duty gloves, reflective vests, boots, hard hat, long pants, etc.) throughout the unloading operations.

    - Crew members are not authorized to disembark from any vessel during COVID-19.

    - At least 72 hours prior to arrival/entry, all Shipping agents MUST provide the following vessel documentation, per International Health Regulation requirements:

        - Maritime Declaration of Health

- Vaccination List (including Yellow Fever and MMR)
- Vessel Particulars
- Crew List (date of embarkation of each crew member)
- An Official Letter from Captain to report the health status of all crew members to include daily recorded temperature within 5 days before arrival.
- Port of Call/Voyage Memo for the last 30 days
- Cargo manifest (e.g. containers from Apia).
- Number of Containers Discharging/Loading in Pago Pago.

16. ASG departments are to schedule full four (4) day work week, not to exceed 32 hours for each week for employees who 60 and above years of age. For the remaining workday in each week, these employees will be placed on furlough status.

17. ASG departments are to stagger staffing coverage deploying 50% / 50% staffing format for employees under 59 years of age to achieve a minimum of 20 hours worked in each work week. These employees will not be subject to furlough status designation.

18. Social distancing methods are to be practiced in conducting government business by using such telecommunications tools as video conferencing, phone calls, emails. It is strongly recommended that all employees serving the public are to wear masks and the Department or Agency is to provide masks for the designated employees.

19. All public schools, private schools, daycares, and ASCC, will continue to be closed for the remainder of this school year and during the additional 30 days of this amended declaration.

20. All public gatherings, including religious worship, of no more than 150 people will be permitted however, the public is requested and encouraged to continue to practice social distancing including the use of masks when engaging in these public activities. The public is advised that failure to obey this restriction will be prosecuted as a Class A Misdemeanor under ASCA § 13.0323. The Department of Public Safety is charged with the full enforcement of all the restrictive provisions of this declaration.

21. All businesses will only be allowed to operate from 5 am to 9 pm and are encouraged to practice social distancing within their respective place of businesses at no more than 50% capacity. Starkist and its direct documented business affiliates, water production, and oxygen gas production are exempted under Code Blue. Businesses are encouraged to keep their facilities sanitized. Further advisories will be issued from the Governor that may adjust restrictions on businesses as necessary.

22. Price gouging is prohibited. This declaration established a "State of Emergency" as the term is used in Title 27, Chapter 9 of the American Samoa Code Annotated. All violations of this provision will be prosecuted vigorously to the full extent of the law.

23. All public transportation services operating hours will be from 5 am to 9 pm daily except for buses under contract with Starkist to provide transportation for employees of the canneries. All Starkist employees riding on the contracted buses will wear masks. During hours of operation, buses and taxis must institute social distancing practices. Each bus and taxi may only operate at half the seating capacity. ASCA § 19.0114 is suspended and the authority to alter or revoke certificates of necessity is delegated to the Commissioner of DPS. This authority shall remain through the duration of the Public Health Emergency. All other hearing and appeal rights for revocation remain with the Commerce Commission.

24. The Territorial Correctional Facility will be closed for visitation. The Juvenile Detention Center shall allow visitation between those housed there and their parents and/or legal guardians. Social distancing shall be exercised and monitored by the administrators of the facility.

25. Visitation to the Shelter will be allowed by compliance with the issued advisory and guidance from the Attorney General as necessary. These advisories and guidance must be vetted by the Coronavirus Task Force for my final approval before implementation.

- **Code Yellow**: With 1 confirmed case in American Samoa, this code will continue heightening restrictions to slow the spread of the disease within the Territory.

    1. Community awareness continues to be a focus and the public is encouraged to maintain hygiene practices.

    2. Families will be encouraged to isolate with 1 designated family member to go to the store.

    3. All businesses will only be allowed to operate from 5 am to 4 pm.

    4. All restaurants will be allowed to provide take-out only and no dine-in service.

    5. The Hope House and Admitted Patients at LBJ will be closed for visitation.

    6. Unnecessary travel to affected areas will be limited.

    7. All ASG business travel will be suspended.

    8. All ASG departments will move to the 50%/50% staffing format or provide flex accommodation. Tier One employees will work on Monday/Wednesday. Tier

Two employees will work Tuesday/Thursday. All employees will be compensated for 40 hours per week. First responders and essential personnel will be staffed for 24/7 operations.

9. A Territorial Curfew of 9pm will be imposed. DPS and the Office of Samoan Affairs are tasked with enforcing the Territorial Curfew.

- **Code Red**: In the event of severe spread of the disease locally, major protective measures will be enforced.

    1. All businesses will only be allowed to operate from 5am to 12pm.

    2. All air and sea travel will be suspended.

    3. Ports of entry will be closed except for Military and approved air or sea cargo vessels.

    4. All public gatherings will be completely shut down.

    5. All ASG operations will be suspended except for first responders and essential employees.

The public is advised that the current threat level is CODE BLUE. Furthermore, any changes in Code level and the associated restrictions announced therein, will be fully incorporated into this declaration as if fully set forth in this declaration.

In accordance with ASCA § 26.0105(g)(1), ASCA 13.0215(d)(3) is suspended in part. In order to respect the rights of individuals but also maintain protection against the Covid-19, DOH is authorized to quarantine and isolate individuals for 14 days without notice. All other provisions of ASCA 13.0215 remain in effect.

In accordance with ASCA § 26.0105(g)(1), the restrictions on "Hazard Pay" in ASAC § 4.0411(b) are suspended. The Director of Department of Human Resources is tasked with developing a policy to compensate medical personnel, first responders, and all ASG employees that face increased risk and exposure associated with their duties.

In accordance with ASCA § 26.0105(g)(1), the maximum grant of four (4) hours for "Excused Absences" in ASAC § 4.0511(a)(10) is suspended. The Director of Department of Human Resources is tasked with developing a policy to compensate all ASG personnel that are under quarantine or unable to attend work for reasons related to the restrictions imposed.

In accordance with ASCA § 26.0105(g)(1), ASCA § 41.0205(1) is partially suspended to the extent that the Board will temporarily suspend its hearings function as it relates to P5 immigrant applications for emergency technical assistance to combat covid-19. The Attorney General is tasked with reviewing and deciding on these applications and in her absence from the Territory

the Governor will review and render decisions on requests. The numerical limitations of ASCA § 41.0301 are likewise suspended.

The public is further advised that the covid-19 response is a multi-departmental effort. Each restriction put into place is for the protection of public health. Cooperation and compliance are necessary to prevent and slow down this disease. DOH and DPS will be tasked with coordinating enforcement to ensure the utmost compliance.

This declaration will be in effect for thirty (30) days and will expire on July 1, 2020. Exclusive authority for rendering all final decisions pertaining to the implementation of all prescribed dictates of this Emergency Declaration is vested solely in the Governor of the Territory of American Samoa.

Dated: June 1, 2020

Lolo M. Moliga

LOLO M. MOLIGA
Governor