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

WHEREAS, the Office of the Governor and the Department of Health remain prepared to take all necessary measures to protect the health and welfare of residents 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 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-Kit shortages; and

WHEREAS, as of April 1, 2020, 206,233 confirmed cases of coronavirus in the United States and Territories with 4,576 registered deaths since the COVID-19 Declaration was promulgated nine (9) weeks since the covid-19 was declared in the United States; 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 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 must now divert operating resources to address this emergency need thus causing the potential for medication and health supply shortages and expanding the scope of the health catastrophe; and

WHEREAS, the exclusion of the Territory of American Samoa from receiving test-kits which would empower our clinicians to test symptomatic residents and obtain results in real time cripples our efforts to prevent the spread and rendering immediate treatment to those with severe cases thereby improving health outcomes; and

WHEREAS, our healthcare professionals lack access to clinical and diagnostic tools to reasonably confirm positive coronavirus cases thereby triggering immediate healthcare protocols to ensure positive health outcomes for these individuals, and now must resort to an unacceptably long coronavirus confirmation process which prolongs the period of uncertainty, public panic, and compelling actions which might be deemed excessive; and

WHEREAS, the World Health Organization has declared COVID-19 a global public health emergency; 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 and the lack of a vaccine or cure creates an imminent threat of outbreak here in American Samoa; and

WHEREAS, previous declarations have been issued for COVID-19, the situation necessitates an updated and continued response from ASG 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 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 people of American Samoa have been exposed to greater risk of being infected because of our sense of patriotism demonstrated by our Governor when he without hesitation approved the request from the United States Coast Guard to allow the Norwegian Jewel Cruise Ship carrying 749 Americans to enter Pago Pago Port to obtain fuel to make the voyage to Hawaii; and then yet again accepting even greater risk of exposure when the Governor allowed close 100 Americans stranded in the Independent State of Samoa to enter American Samoa so they can transit to the States on Hawaiian Airlines creating panic given the lack of facilities to quarantine these Americans to minimize the potential of spread of the COVID-19; and

WHEREAS, the State of Hawaii has now registered one fatality with the escalating number of cases being the only gate to American Samoa further increasing our vulnerability; 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; and

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:

All entry permits are suspended until further notice.

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 initiated to the fullest extent possible but also may be subject to alteration as more information becomes available.

- **Code Blue**: Minimal social disruption with an emphasis on social distancing, hygiene, and cough etiquette.
    - The public is encouraged to 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 Comprehensive Sanitation Program for Community Facilities for guidance on disinfecting households.
    - Travelers from affected foreign countries will be on full quarantine on arrival. For covid-19 related workers, quarantines will not be imposed.
    - Travelers from affected US states will be subject to screening and quarantine at the discretion of DOH physicians. For covid-19 related workers, quarantines will not be imposed.
    - Unnecessary travel to affected foreign countries or US states is discouraged.
    - ASG departments are to stagger staffing coverage and use a four (4) day work week for employees (10 hours/day) to ensure sufficient coverage but limited interpersonal exposure.

- Social distancing methods are to be encouraged such as video conferencing, phone calls, emails for communication.
- All off-island medical referrals to New Zealand are suspended. The option will be considered only for medical emergencies and be at the discretion of LBJ physicians.
- All public schools, private schools, daycares, and ASCC, will be closed until further notice. The Director of Department of Education is directed to develop and implement plans to continue education for students studying at home.
- All public gatherings are suspended until further notice. This includes, but is not limited to, bingo halls, rallies, political events, theaters, traditional gatherings, parks and recreation areas, flight night gatherings, and major sponsored events. Only private family gatherings of no more than ten (10) people will be permitted. DPS is tasked with ensuring that public gatherings disperse. The public is advised that failure to obey this restriction will be prosecuted as a Class A misdemeanor under ASCA § 13.0323.
- All businesses will only be allowed to operate from 6am to 6pm. Only those businesses that impact food security are exempted from operating hours restrictions. Restaurants, bars, and nightclubs will be limited to no more than ten (10) person occupancy. Businesses are encouraged to keep their facilities sanitized. All drive-thru and take-away restaurants may remain open until 10:00 pm daily. Further advisories will be issued from the Governor that may adjust restrictions on businesses as necessary.
- All public transportation services are to cease operations at 6pm except for buses under contract with Starkist to provide transportation for employees of the canneries. 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.
- The Territorial Correctional Facility will be closed for visitation.
- Flights to Samoa are suspended until further notice.
- Entry permits for foreign nationals will continue to be suspended.
- 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.
- 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. Work related OK Boards will be considered but applications must include verification from employer.
- 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.

- All church meetings, services, and events are suspended until further notice effective April 3, 2020. The threat posed by the pandemic require drastic social distancing measures and churches are encouraged to continue worship services remotely via video conferencing technology.

- **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.
  - Community awareness continues to be a focus and the public is encouraged to maintain hygiene practices.
  - Families will be encouraged to isolate with 1 designated family member to go to the store.
  - All businesses will only be allowed to operate from 6am to 3pm.
  - All restaurants will be allowed to provide take-out only and no dine-in service.
  - The Hope House and Admitted Patients at LBJ will be closed for visitation.
  - Unnecessary travel to affected areas will be limited.
  - All ASG business travel is suspended.
  - All ASG departments are to schedule 50% staffing levels and/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.
  - 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.
  - All businesses will only be allowed to operate from 6am to 12pm.
  - All passenger air and sea travel will be suspended.
  - Ports of entry will be closed except for Military and approved air or sea cargo vessels.
  - All public gatherings will be completely shut down.
  - 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 is 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 May 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: April 1, 2020

Lolo M. Moliga

LOLO M. MOLIGA
Governor