A RESOLUTION

To further amend the President’s Public Health Emergency Declaration dated January 31, 2020, as amended on February 7, 2020, and further amended on March 11, 2020 and April 17, 2020.

WHEREAS, on January, 31, 2020, the President issued a Public Health Emergency Declaration; and

WHEREAS in accordance to Article X, Section 9 (c) of the FSM Constitution, Congress has the sole authority to revoke, amend or extend the Public Health Emergency Declaration; and

WHEREAS, Congress is currently convened for its [Fifth Special] Fourth Regular Session and therefore has the powers under the Constitution to revoke, amend or extend the Declaration; and

WHEREAS, Congress has reviewed the Declaration, the amendments, the clarifications and the decrees issued by the President and has reviewed updated information on the COVID-19 becoming a pandemic soon after the adoption of the March 11, 2020, amendment to the January 31, 2020, declaration, the facts attending to the declaration, amendments, clarifications and decrees, and has had several public hearings and has met and conferred with the President and has considered the President’s requests for Congressional action; now, therefore,

BE IT RESOLVED by the Twenty-First Congress of the Federated States of Micronesia, Fourth Regular Session, 2020, that:

(1) Pursuant to Article X, Section 9 (c) of the FSM
Constitution, Congress has the exclusive authority to revoke, amend or extend the Emergency Declaration. The President may not revoke, amend or extend the Emergency Declaration. However, should there be a confirmed case of COVID-19 within the FSM, the President is authorized to amend the Declaration to respond to this situation only.

(2) Pursuant to Article X, Section 9 (a) of the FSM Constitution, the President may issue appropriate decrees related to the Emergency Declaration, other than to revoke, amend or extend the Emergency Declaration. Unless and until this Emergency Declaration is revoked by Congress, or it expires of its own term, the President may not issue an additional or new Emergency Declaration to address the ongoing COVID-19 Pandemic. The purported declaration issued on March 14, 2020 by the President is null and void and all purported amendments, decrees and clarifications made pursuant to the purported declaration are also null and void. Most of the contents of the purported March 14, 2020 declaration and subsequent decrees thereof are incorporated herein for clarity and comity.
purposes. The contents thereof which are not inconsistent or contradictory to the January 31, 2020 declaration as amended and as further amended herein by Congress are hereby deemed ratified as to their effectiveness and implementation, relating back to their date of issuance or implementation.

(3) [The President shall discuss with the Governors of all the 4 states the terms of the social distancing requirements and other safety precautions that shall be mandated, within 30 days, for the entire nation.] The President is urged to coordinate and consult with the state governors and their task forces, with a view towards setting a national standard of social distancing measures, and the National Task Force shall support the states mandated implementation of the guidelines. The social distancing standards and measures shall be widely publicized throughout the nation.

(4) The Public Health Emergency Declaration in the FSM dated January 31, 2020, is hereby further amended to read:

WHEREAS, the World Health Organization (WHO) has declared on January 30, 2020 (January 31st 2020 Pohnpei time) that the new
Coronavirus (COVID-19) is a Public Health Emergency of International Concern (PHEIC); and

WHEREAS, the WHO has declared on March 11, 2020, (March 12, 2020 Pohnpei time) that COVID-19 is a pandemic and this occurred after Congress adopted it’s March 11, 2020 amendment to the January 31, 2020 declaration; and

WHEREAS, the COVID-19 Pandemic exposes the FSM to an undeniable vulnerability from the imminent and likely entry of the virus to the islands unless the FSM National Government and the State Governments resolves to implement effective and uniform counter measures to combat the spread of this rare and deadly virus across all of our states; and

WHEREAS, the National Government must mitigate the risk factors associated with the undesirable spread of COVID-19 anywhere in the FSM, and for this purpose, the FSM must fast-track nationwide, unified capacity building efforts - which remain in progress, intensify the surveillance and monitoring of international airports and seaports in the country, and maintain quarantine and travel restrictions, together and as a whole, comprising the national efforts of combatting the spread of COVID-19 as other countries around the world are doing; and

WHEREAS, the number of countries with confirmed and suspected cases of COVID-19 keeps increasing and the number of deaths due to COVID-19 have intensified with no signs of receding in the near future; and
WHEREAS, the citizens and residents of the FSM remain extremely vulnerable to this outbreak, taking into consideration the fact that airline travel routes connecting into the FSM already have confirmed cases of COVID-19 in Hawaii and Guam and COVID-19 may very likely cause massive and widespread illnesses and public health disasters that are beyond the ability and present resources of the FSM National and State Governments to contain; and

WHEREAS, given the unrelenting global spread of COVID-19, and the reality that is already a pandemic, it becomes a matter of legal duty and obligation of the National Government of the FSM, its leadership and all officials of this Nation, to take all the emergency precautions, measures and interventions as a matter of acute emergency and necessity, in order to protect and save lives of our citizens, especially the most vulnerable members of our population, the elderly, the sick and the children;

NOW THEREFORE, I, David W. Panuelo, President of the Federated States of Micronesia, pursuant to the authority vested upon me under Article X, Section 9 of the FSM Constitution, do hereby place the entire territory of the Federated States of Micronesia under a state of emergency to address the effects of COVID-19 and order as follows:

(1) Immediately, all ports of entry of the FSM shall be strengthened and are immediately placed under strict monitoring and surveillance to ensure that
the potential carriers of COVID-19 do not enter into the FSM. All travellers must be screened thoroughly for any signs or symptoms of COVID-19, such as feeling tired, difficulty breathing, high temperature (fever) and coughing and/or sore throat.

(2) All National border and security personnel (Customs, Immigration and Quarantine) are under a duty to intensify monitoring of the borders of this Nation and work very closely with the National and State Task Forces to implement a unified response.

(3) Given the severity of the situation, as a matter of national security of this Nation and in the interest of maintaining good health and safety of our people, immediately upon its issuance, this Decree shall be disseminated to the public as widely as possible throughout the Nation, by radio, print media and by digital media. The FSM Emergency Task Force shall monitor the implementation, enforcement and full compliance of this emergency declaration and provide timely reports to the President.

(4) Nationwide, unified travel bans must be enforced according to the terms of this declaration.
Persons travelling from any infected country, state or territory, are prohibited from entering into the FSM for as long as the COVID-19 Pandemic persists. Rare exceptions may be granted on a case-by-case basis, for certified health experts, technicians and workers assigned to assist the FSM with respect to COVID-19, returning medical referral patients, including if applicable, the remains of a deceased and the medical or family attendant, premised upon prior favorable advice, assessment and recommendation by the FSM Emergency Task Force, in consultation with the state task forces, and subject to all screening, detection, quarantine and isolation procedures and protocols of the State of destination.

(5) All FSM Citizens are banned from travelling to any country, state or territory with confirmed cases of COVID-19 until further notice and until such time that a determination is made that the COVID-19 Pandemic is effectively contained. Exceptions may be granted for FSM citizens who will be traveling to affected areas, who are legal residents of an affected area, and are returning to their homes or employment or for urgent medical treatment premised upon favorable
advice, assessment and recommendation by the FSM Emergency Task Force.

(6) Other citizens, nationals and residents of the FSM are strongly advised against travel to any country, state or territory with confirmed cases of COVID-19, with the understanding that they may be prohibited from re-entry or may be subject to quarantine procedures upon return to the FSM.

(7) Travel by air or sea between and within the FSM states is permitted for: essential personnel; people who are returning to their state of residence, employment, or location of their educational institution; or for a family emergency, as long as there are no confirmed cases of COVID-19 within any of the FSM states. Only air and sea travel that originates within the FSM states, by domestic air or sea carriers, is permitted, travel that originates outside of the FSM is not permitted. [(i.e. flights) Flights originating in Guam or Hawaii or any other affected area are not permitted and ships originating from any affected area are not permitted]. All passengers will be screened at the airport or seaport prior to check in or boarding and are subject to health screening
procedures in the FSM state of destination. Any passenger exhibiting symptoms of COVID-19 will not be permitted to board the plane or ship. Any passenger that develops symptoms during transit will be permitted to enter at their final destination, but will subject to quarantine/isolation requirements.

(8) Because of the lack of available quarantine and isolation facilities within the FSM, no passengers shall be permitted to disembark into the FSM from any air or sea vessel that originates outside the FSM, subject to the exceptions in Section 4, for FSM citizens international travel and Section (9) for commercial sea vessels.

i. However, the National Task Force shall work in consultation with each of the states for the purpose of establishing and further developing their quarantine and isolation facilities standards and capabilities. When the facilities within any of the states are developed to acceptable standards, the states will work with the National Task Force to develop a plan for repatriation of FSM citizens, FSM students and the return of FSM residents, to include FSM
government officials and members of the FSM diplomatic corps. The National Task Force shall work with international air carriers to notify them of the procedures that will be followed including scheduling of arrivals, pre-screening, screening upon arrival and quarantine and isolation requirements.

ii. The authority to regulate foreign and interstate commerce is expressly granted to Congress in the Constitution, FSM Const. art. IX, § 2(g). FSM Const. art. XIII § 3. requires the national and state governments to uphold the provisions of the Constitution and to advance the principles of unity upon which the Constitution is founded. These travel restrictions may not be amended by the states; they may only be amended by Congressional Resolution if Congress is in session, or by written communication signed by the majority of the Committee of Health and Social Affairs if Congress is not in session.

(9) Commercial sea vessels (defined as: fishing vessels, cargo vessels and oil tankers) traveling to the FSM for the purpose of trade and commerce, are subject to the following:

a. Commercial sea vessels are required to abide
at all times with the precautionary measures and
protocols set by the FSM National Government in
coordination with the National and State task
forces.

(10) Fishing vessels, other than the domestic fleet,
are subject to the following:

a. [With the exception of transshipment
activities in Kosrae by purse seine fishing
vessels and of activities falling under section
(b) hereof, all transshipment activities are to
be carried out in designated transshipment areas
to be identified by the National Oceanic Resource
and Management Authority (NORMA). A designated
transshipment area will be in the territorial
waters beyond the three nautical miles zone from
baselines. NORMA shall issue appropriate
guidelines regulating the transshipment.] All
transshipment activities are to be carried out in
designated transshipment areas to be identified
by the National Oceanic Resource Management
Authority (NORMA). A designated transshipment
area will be in port areas or in territorial
waters beyond the three nautical miles zone from
baselines. NORMA shall issue appropriate
guidelines regulating the transshipment.
b. Carrier vessels supporting transshipment activities of the domestic fleets are permitted to enter the anchorage area for transshipping purposes only, subject to state health screening procedures.

c. Longline (LL) fishing vessels are allowed to come to port for transshipment purposes, subject to the additional measures established by NORMA for the avoidance of COVID-19, and observing the following guidelines:

i. Fresh LL fishing vessels are allowed to transship at port; PROVIDED, THAT, there shall be no contact at anytime prior to the transshipment.

ii. Frozen LL fishing vessels are allowed to transship at port; PROVIDED, THAT, the fishing vessels observe the 14-day quarantine at sea, and no crewmembers are allowed to disembark at port. The 14-day quarantine is counted from the date of last contact.

iii. For the purpose of Section (b) hereof, and any part of this decree where its application is deemed relevant, “contact”
refers to human interaction of less than four (4) feet between a crewmember of one fishing vessel and another crewmember of another fishing vessel, or any other human to human contact external to fishing vessel operations.

iv. Bartering, trading and local sale of fish are prohibited. No person is allowed to approach, in the transshipment and Anchorage area, any fishing vessel, or have any contact therewith, at any time during the effective period of this declaration.

d. Domestic fishing vessels are allowed to call port in the FSM States for repair, maintenance and provisioning purposes at the Anchorage area, and shall remain in the Anchorage area during repairs, maintenance and provisioning. For the purposes of this section, domestic fishing vessels are fishing vessels that are flagged in the FSM or have a base of operation anywhere in the FSM States. On a case by case basis, NORMA may, in consultation with the states, grant approval for required repairs and maintenance to be
completed at the dock for any repairs or
maintenance that cannot be carried out at the
anchorage area, subject to no human-to-human
contact during said repairs. A written plan
outlining the safety procedures that will be
followed must be submitted to NORMA for
approval at least 72 hours prior to the
requested repairs.

e. With respect to transshipment at sea,
Immigration and Customs clearance procedures
shall be conducted electronically with the
intention of avoiding or minimizing contact.
For the duration of the emergency procedure
concerning transshipment at sea, quarantine
procedures are suspended until further notice.

f. Transshipment at sea shall be monitored
thoroughly by the relevant national department
or agency, in particular, the Department of
Justice (DOJ) and NORMA, to ensure compliance
with this directive. NORMA and DOJ, on behalf
of the National Emergency Task Force, shall
coordinate with the State authorities to
ensure that the transshipment activities are
not unduly delayed or interfered with by any
State-mandated procedures.
g. It is part of these requirements that 72 hours prior to transshipment, notice shall be provided in advance to NORMA and DOJ using applicable forms of reporting. Included in the notice are the body temperatures of all crewmembers of the fishing vessels intending to transship, taken at 24-hour intervals prior to transshipment. (at 72 hours, at 48 hours and at 24 hours). Information on body temperatures may be shared with the State authorities for health assessment and coordination purposes.

h. These restrictions are a temporary emergency measure, which shall remain in effect until further notice. Any violation of these restrictions shall be subject to penalty set by law pursuant to 11 F.S.M.C. §803. The Secretary of Justice is ordered to take all measures available within the law to ensure enforcement of these restrictions.

(11) A task force is hereby established to coordinate all activities that need to be undertaken and measures that must be formulated and uniformly implemented in connection with the COVID-19 Pandemic. The Department of Health and Social
Affairs is designated as the lead department and chair of the Task Force, which will be responsible for setting up plans to provide any necessary measures that will ensure that the movement of people and international travellers do not cause the introduction of COVID-19 anywhere in the FSM. The members of the Task Force are the following:

a. Department of Environment, Climate Change and Emergency Management (DECCEM);

b. Department of Foreign Affairs;

c. Department of Finance and Administration;

d. Department of Transportation, Communications and Infrastructure (TC&I);

e. Department of Justice;

f. Department of Resources and Development (R&D);

g. Department of Education;

h. FSM Division of Immigration;

i. Representatives of the Private Sector;

j. Representatives of State Governments as recommended by the State Governors;

k. Development Partners;

l. Representatives of Faith Groups; and

m. Representatives of Traditional Leaders.

(12) The Task Force shall convene immediately upon
issuance of this order and provide the President with timely reports and updates.

(13) Up to the sum of $700,000, received as balance and available under the Disaster Relief Fund (DRF) accounts set up under Title 55 of the Code of the Federated States of Micronesia (Annotated), from prior declarations of emergencies, is hereby decreed for this Public Health Emergency Declaration. This fund shall be used in any manner necessary to deal with the public health emergency, including the mitigation of costs for people affected by the travel ban instituted by the emergency declaration. The Emergency Task Force shall develop suitable criteria for the mitigation of costs for President’s approval.

(14) Other funds received from foreign donors, including the United States, that are specifically related to the FSM national response to the COVID-19 Pandemic may be used for nationwide capacity building, intensifying the surveillance and monitoring of international airports and seaports in the FSM, expanding and maintaining quarantine and travel restrictions, and other national efforts to combat the spread
(15) Expenditures of the decreed funds are subject to full accounting. Within 20 days after the end of the emergency, the Chair of the Task Force, with the assistance of the Secretary of Finance and Administration and staff, shall provide the President with a full report on the expenditure of funds, and shall submit the report to Congress no later than 30 days after the emergency is over.

(16) The Department of Finance shall identify sources of replenishment for the decreed funds and recommend to the President, as soon as practical, additional supplemental budget request to Congress.

(17) During the emergency, a civil right may be impaired only to the extent actually required for the preservation of peace, health or safety. The normal requirement of competitive bidding is waived for any procurement made in connection with this declaration of emergency.

(18) Unless sooner revoked by Congress, this Emergency Declaration is in effect until [May] July 31, 2020.

(19) All previous amendments and clarifications to the
Public Health Emergency Declaration are hereby revoked.

BE IT FURTHER RESOLVED, that the President shall disseminate widely the Public Health Declaration of Emergency as amended by Congress, and any subsequent decrees and clarifications made by the President pursuant to this Resolution; and

BE IT FURTHER RESOLVED, that certified copies of this resolution be transmitted to the President of the Federated States of Micronesia, the Chief Justice of the FSM Supreme Court, the Governors of Chuuk, Kosrae, Pohnpei and Yap States, the presiding officers of the four state legislatures, and the heads of the airports and seaports in Chuuk, Kosrae Pohnpei and Yap.

Date: 5/26/20

Introduced by: /s/ Wesley W. Simina

Wesley W. Simina