EXECUTIVE ORDER NO. 142

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 (2020) on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, the Public Health Emergency declared in Executive Order No. 103 (2020) has been twice extended, through Executive Order No. 119 (2020), which I signed on April 7, 2020, and through Executive Order No. 138 (2020), which I signed on May 6, 2020, and continues to exist today; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserve the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act and the Emergency Health Powers Act, to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133, Executive Order Nos. 135-138, and Executive Order Nos. 140-141 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, among other measures to protect the health, safety, and welfare of New Jersey residents, Executive Order No. 122 (2020) prohibited non-essential construction projects from continuing in the State, given the risk of transmission at such construction sites among the workers; and

WHEREAS, to further limit the spread of COVID-19 through person-to-person contact, I issued Executive Order No. 107 (2020), which canceled all gatherings of individuals, and which thereby prohibited everything from informal events such as parties and celebrations to organized events of any kind, unless otherwise authorized; and

WHEREAS, the State Director of Emergency Management, who is the Superintendent of the State Police, issued Administrative Order No. 2020-4 to establish that gatherings of 10 persons or fewer are presumed to be in compliance with Executive Order No. 107 (2020); and

WHEREAS, while Administrative Order No. 2020-4 acknowledged there may be circumstances in which clear evidence showed an impermissible gathering was happening even if 10 persons or fewer were in attendance, law enforcement has not identified any such situations in practice, and instead is consistently enforcing violations of the prohibition on gatherings only where there have been more than 10 people in attendance; and

WHEREAS, in addition to limiting person-to-person contact at construction sites and gatherings, I also established statewide social mitigation strategies in Executive Order No. 107 (2020) that included closing the brick-and-mortar premises of non-essential retail businesses to the public; and

WHEREAS, the Centers for Disease Control and Prevention ("CDC") has now recommended that all residents wear cloth face coverings in public settings where other social distancing measures are difficult to maintain, particularly in areas of significant community-based transmission; and

WHEREAS, the CDC has also recommended certain cleaning and disinfecting procedures for businesses to reduce potential spread of COVID-19 to staff and members of the public; and

WHEREAS, as the rate of reported new cases of COVID-19 in New Jersey decreases, including a reduction in the total number of individuals being admitted to hospitals for COVID-19, the State can begin to take certain steps to lift certain restrictions that were designed to limit person-to-person contact; and

WHEREAS, even as the rate of reported new cases of COVID-19 decreases, the ongoing risks presented by COVID-19 mean that a considerable number of the State's current measures must remain in place, both to reduce additional new infections and to save lives, until additional metrics – such as expanded testing and use of contact tracing – have been satisfied; and

WHEREAS, given the decrease in the rate of reported new cases of COVID-19, permitting non-essential construction projects to resume subject to strict social distancing measures, allowing for gatherings at which individuals remain in their closed vehicles, and authorizing curbside pickup at non-essential retail businesses are each measures that are appropriately tailored to the current risk to public health and safety; and

WHEREAS, construction sites are generally limited to workers, rather than customers and other members of the public, and so involve less risk of significant transmission of COVID-19 in the community; and

WHEREAS, although gatherings generally present a significant risk of person-to-person transmission, attendees at gatherings who remain in their vehicles and therefore do not come into significant in-person contact during the gathering pose a lower threat to public health and safety, but permitting individuals to leave their

vehicle or open their windows or roofs when in proximity with other individuals could result in significant person-to-person contact, meaning that there must be careful limits whenever individuals gather while remaining in their vehicles; and

WHEREAS, permitting curbside pickup at non-essential retail businesses is reasonable in that it avoids unnecessary contact between customers and staff in enclosed spaces, and instead only allows for the similar amount of limited contact that might happen when products are being delivered to a residence; and

WHEREAS, by contrast, the extensive interactions that would happen at in-person gatherings and that would happen from in-store retail operations continue to present a significant risk, and so the general ban on gatherings and the restrictions on in-store operations for non-essential retail businesses cannot be lifted at this time; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq. and N.J.S.A. App. A:9-33 et seq., and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The physical operations of all construction projects that were not designated as essential in Executive Order No. 122 (2020) are permitted to resume, subject to the conditions in paragraph 2 of this Order.

2. All businesses engaged in construction projects in the State, whether or not the projects were designated as essential under Executive Order No. 122 (2020), must adopt policies that include, at minimum, the following requirements:

a. Prohibit non-essential visitors from entering the worksite;

b. Engage in appropriate social distancing measures when picking up or delivering equipment or materials;

c. Limit worksite meetings, inductions, and workgroups to groups of fewer than 10 individuals;

d. Require individuals to maintain six feet or more distance between them wherever possible;

e. Stagger work start and stop times where practicable to limit the number of individuals entering and leaving the worksite concurrently;

f. Identify congested and "high-risk areas," including but not limited to lunchrooms, breakrooms, portable rest rooms, and elevators, and limit the number of individuals at those sites concurrently where practicable;

g. Stagger lunch breaks and work times where practicable to enable operations to safely continue while utilizing the least number of individuals possible at the site;

h. Require workers and visitors to wear cloth face coverings, in accordance with CDC recommendations, while on the premises, except where doing so would inhibit the individual's health or the individual is under two years of age, and require workers to

wear gloves while on the premises. Businesses must provide, at their expense, such face coverings and gloves for their employees. If a visitor refuses to wear a cloth face covering for non-medical reasons and if such covering cannot be provided to the individual by the business at the point of entry, then the business must decline entry to the individual. Nothing in the stated policy should prevent workers or visitors from wearing a surgical-grade mask or other more protective face covering if the individual is already in possession of such equipment, or if the businesses is otherwise required to provide such worker with more protective equipment due to the nature of the work involved. Where an individual declines to wear a face covering on the premises due to a medical condition that inhibits such usage, neither the business nor its staff shall require the individual to produce medical documentation verifying the stated condition;

i. Require infection control practices, such as regular hand washing, coughing and sneezing etiquette, and proper tissue usage and disposal;

j. Limit sharing of tools, equipment, and machinery;

k. Where running water is not available, provide portable washing stations with soap and/or alcohol-based hand sanitizers that have greater than 60% ethanol or 70% isopropanol;

l. Require frequent sanitization of high-touch areas like restrooms, breakrooms, equipment, and machinery;

m. When the worksite is an occupied residence, require workers to sanitize work areas and keep a distance of at least six feet from the occupants; and

n. Place conspicuous signage at entrances and throughout the worksite detailing the above mandates.

3. Paragraph 2 of Executive Order No. 122 (2020) is hereby superseded in full. Paragraph 3 of that Order is hereby superseded to the extent that it applied to businesses engaged in essential construction projects. New Jersey Office of Emergency Management (NJOEM) Administrative Order No. 2020-11 is hereby superseded in full.

4. Any gathering that adheres to all of the following rules does not violate Paragraph 5 of Executive Order No. 107 (2020):

a. Attendees participating in the gathering must arrive in a vehicle and they must remain in that same vehicle during the entire gathering;

b. Each attendee's vehicle must remain entirely closed at all times, meaning that the windows, doors, sunroofs, and tops of the vehicle must be closed at all times, unless:

i. The vehicle is more than six feet from any other vehicle or individual, except for, as applicable, the limited number of individuals organizing or maintaining the gathering; or

ii. A law enforcement officer, appropriate public official, or private security guard asks any attendee to open the vehicle's windows, doors, sunroofs, and/or tops.

c. If there are individuals organizing or maintaining the gathering, and who are not in closed vehicles, such individuals must follow all applicable Executive Orders and Administrative Orders, and must wear cloth face coverings or more protective face coverings in any settings where other social distancing measures are difficult to maintain, except where doing so would inhibit that individual's health; and

d. To the degree that a gathering requires pre-payment, or seeks donations of any kind, contactless options for pre-payment or donation, such as online or by telephone, must be offered wherever feasible.

5. If an individual leaves their home to participate in any gathering in accordance with Paragraph 4 of this Order, it shall not be a violation of Paragraph 2 of Executive Order No. 107 (2020).

6. If a recreational and entertainment event adheres to the rules laid out in Paragraph 4 of this Order, it will also not be a violation of Paragraph 9 of Executive Order No. 107 (2020). Paragraph 9 of Executive Order No. 107 (2020) is hereby superseded to the extent that it prohibited recreational and entertainment events where customers do not leave their vehicles.

7. Nothing in Paragraph 4 of this Order shall prevent an individual from leaving a vehicle, opening a vehicle's windows, sunroofs, doors, and/or tops, and/or approaching a vehicle, if done to protect their health or safety or the health or safety of another individual, or to access a restroom.

8. Where a gathering does not adhere to Paragraph 4 of this Order, gatherings of 10 persons or fewer are in compliance with the terms of Section 5 of Executive Order No. 107 (2020), while gatherings of more than 10 persons are in violation of that Executive Order.

9. Non-essential retail businesses are permitted to reopen to the public, but only where they adopt policies that include, at minimum, the following requirements:

a. Customers shall not be permitted to enter the brick-and-mortar premises, but shall be permitted to pick up goods outside of the establishment that they have already ordered ("curbside pickup");

b. In-store operations shall be limited, wherever feasible, to those employees who are responsible for the operations required for curbside pickup;

c. Customer transactions shall be handled in advance by phone, email, facsimile, or other means that avoid person-to-person contact, wherever feasible;

d. Customers shall notify the retailer by text message, email, or phone once they arrive, whenever feasible, or make best efforts to schedule their arrival time in advance. The customer shall be asked to remain in their vehicle, if arriving by car, until store staff delivers the purchase;

e. Designated employees shall bring goods outside of the retail establishment and place the goods directly in a customer's vehicle whenever feasible; and

f. Retail businesses operating in shopping malls are permitted to operate by curbside pickup, in accordance with the other requirements of this paragraph, but employees must bring the goods to customers at the exterior of the mall and shall place them directly in a customer's vehicle whenever feasible. The indoor portions of shopping malls shall remain closed to the public, consistent with Executive Order No. 107 (2020).

Additionally, the policies described in this paragraph should also ensure that non-essential retail business employers do the following, at a minimum:

g. Require infection control practices, such as regular hand washing, coughing and sneezing etiquette, and proper tissue usage and disposal;

h. Provide employees break time for repeated handwashing throughout the workday;

i. Provide sanitization materials, such as hand sanitizer and sanitizing wipes, to staff;

j. Require frequent sanitization of high-touch areas to which workers have access; and

k. Require workers to wear cloth face coverings and gloves when interacting with other workers or customers and require workers to wear gloves when in contact with customers or goods. Businesses must provide, at their expense, such face coverings

and gloves for their employees. Nothing in the stated policy should prevent workers from wearing a surgical-grade mask or other more protective face covering if the individual is already in possession of such equipment, or if the business is otherwise required to provide such worker with more protective equipment due to the nature of the work involved.

10. The State Director of Emergency Management, who is the Superintendent of State Police, shall have the discretion to make additions, amendments, clarifications, exceptions, and exclusions to the terms of this Order.

11. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of any nature whatsoever, to cooperate fully in all matters concerning this Executive Order, and to cooperate fully with Administrative Orders issued pursuant to this Executive Order.

12. No municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of this Order or which will or might in any way interfere with or impede the achievement of this Order.

13. Penalties for violations of this Executive Order may be imposed under, among other statutes, N.J.S.A. App. A:9-49 and -50.

14. Paragraphs 4-8 shall take effect immediately and Paragraphs 1-3 and 9 shall take effect at 6:00 a.m. on Monday, May 18, 2020. This Order shall remain in effect until revoked or modified by the Governor.

GIVEN, under my hand and seal this 13th day of May, Two Thousand and Twenty, and of the Independence of the United States, the Two Hundred and Forty-Fourth.

[seal]

/s/ Philip D. Murphy

Governor

Attest:

/s/ Matthew J. Platkin

Chief Counsel to the Governor