EXECUTIVE ORDER NO. 165

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 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, through Executive Order Nos. 119, 138, 151 and 162, issued on April 7, 2020, May 6, 2020, June 4, 2020, and July 2, 2020, respectively, the facts and circumstances of which are adopted by reference herein, I declared that the COVID-19 Public Health Emergency continued to exist and declared that all Executive Orders and Administrative Orders adopted in whole or in part in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserved 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, Nos. 135-138, and Nos. 140-164 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, among these actions, and in recognition that the Centers for Disease Control and Prevention has advised that social mitigation strategies for combatting COVID-19 require every effort to reduce the rate of community spread of the disease and that

COVID-19 spreads most frequently through person-to-person contact when individuals are within six feet or less of one another, I issued Executive Order No. 107 (2020) to order steps to mitigate community spread of COVID-19; and

WHEREAS, in response to the current emergency, I issued Executive Order No. 125 on April 11, 2020 that addressed a variety of requirements that the following entities had to implement in order to protect the workers and customers using public transit during the COVID-19 State of Emergency: NJ TRANSIT (defined collectively as New Jersey Transit Corporation, NJ TRANSIT Rail Operations, Inc., NJ TRANSIT Bus Operations, Inc., NJ TRANSIT Mercer, Inc., and NJ TRANSIT Morris, Inc.), the private carriers that NJ TRANSIT has entered into contracts with for the provision of bus and light rail service (hereinafter referred to collectively as "Private Carriers"), the private carriers that NJ TRANSIT has not entered into contracts with and that run their own individual lines of intrastate service in New Jersey as well as interstate service to New York and Pennsylvania (hereinafter referred to collectively as "Unaffiliated Private Carriers"), and the private carriers that NJ TRANSIT has entered into contracts with for the provision of Access Link paratransit services (hereinafter referred to as "Paratransit Private Carriers"); and

WHEREAS, within the State of New Jersey there are numerous entities that provide transportation services, directly or through a third party, to workers or employees to get to, return from, or move within or among work sites that are not otherwise available to the general public (hereinafter referred to as "Employer Provided Transportation Services"); and

WHEREAS, given the decrease in the rate of reported new cases of COVID-19 in New Jersey, including a reduction in the total number of individuals being admitted to hospitals for COVID-19, and in the rate of reproduction for COVID-19 infections in New Jersey, the State can take steps and has taken 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 many of the State's current measures must remain in place, both to reduce additional new infections and to save lives; and

WHEREAS, after consultation with officials from the Department of Health ("DOH"), I announced a multi-stage New Jersey's Road Back Plan for the methodical and strategic reopening of businesses and activities based on scientific data and metrics concerning the level of disease transmission risk and essential classification; and

WHEREAS, the State is in the second phase of the reopening process and has begun to relax restrictions on activities where appropriately safeguarded; and

WHEREAS, NJ TRANSIT has instituted enhanced cleaning efforts for vehicles across all its modes of transportation, including disinfecting vehicles every 24 hours, hard surface cleaning and disinfecting including handholds, arm rests, seating areas, and restrooms; and

WHEREAS, NJ TRANSIT has instituted enhanced cleaning regimens in stations including additional disinfecting of frequent customer touchpoints like ticket vending machines, handrails, and door handles; and

WHEREAS, as an added precautionary measure to protect bus operators and customers, NJ TRANSIT and Private Carriers previously implemented rear-door boarding on all bus routes where rear-boarding is available, and seats near the bus operator have also been taken out of service to allow for proper social distancing for the operator; and

WHEREAS, NJ TRANSIT bus operations is actively investigating and implementing the installation of physical barriers between operators and passengers to ensure adequate protections for its bus operators; and

WHEREAS, in accordance with the stay at home provisions of Paragraph 2 of Executive Order No. 107 (2020), which has since been rescinded by Paragraph 11 of Executive Order No. 153 (2020), NJ TRANSIT had issued customer advisories noting initially that travel across all of its modes of transportation should be limited to essential personnel who did not have any other feasible means of transportation; and

WHEREAS, following the announcement of New Jersey's Road Back Plan, NJ TRANSIT issued guidelines on June 16, 2020 entitled "Ride to Recovery", which indicated that travel on the NJ TRANSIT system is encouraged only for those who cannot work from home; and

WHEREAS, NJ TRANSIT, Private Carriers, and Unaffiliated Private Carriers have adjusted the weekday rail, bus, and light rail service to full weekday regular service schedules to accommodate increasing volume of travel with NJ TRANSIT bus service resuming full weekday schedule on June 8, 2020, NJ TRANSIT rail and light rail service resuming full weekday schedule on July 6, 2020, and Private Carrier and Unaffiliated Private Carriers gradually resuming pre-COVID service schedules based on customer demand; and

WHEREAS, in the three months since Executive Order No. 125 (2020) was signed, the number of new cases has continued to decrease, and there has been a continued decline in COVID-19 related hospitalizations, ICU admissions, and ventilator usage; and

WHEREAS, in light of this continued progress and the continued reopening of New Jersey in accordance with the Road Back Plan, it is appropriate to revise certain provisions of Executive Order No. 125 (2020) applying to NJ TRANSIT, Private Carriers, Unaffiliated Private Carriers, and Paratransit Private Carriers, and to also include provisions applying to Employer Provided Transportation Services, and to continue to do so in a gradual way, so that the State can continue to assess the progress of new COVID-19 cases and hospitalizations, and to monitor the rate of reproduction and the percentage of COVID-19 tests that yield positive results, relative to the new limits, and thereby avoid the spread of COVID-19 being identified in other parts of the country; and

WHEREAS, it is also appropriate to continue to impose specific mitigation requirements on NJ TRANSIT, Private Carriers, Unaffiliated Private Carriers, Paratransit Private Carriers, and Employer Provided Transportation Services to continue to protect workers and members of the public who cannot work from home and thus must be able to report to work, while also preventing increased spread of COVID-19; and

WHEREAS, even as the State began to permit businesses to reopen indoor premises to the public, the State required all individuals to wear face coverings inside those premises, because face coverings have been demonstrated to significantly reduce the risk of COVID-19 transmission from person-to-person contact, and

therefore are particularly necessary in high-risk indoor environments; and

WHEREAS, face coverings have been consistently required in indoor areas of retail businesses, recreational and entertainment businesses, personal care service facilities, and mass transit, among other contexts, reflecting the State's judgment that face coverings are needed to prevent the spread of COVID-19 in indoor areas; 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., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 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. NJ TRANSIT may open their trains, buses, and light rail vehicles to the stated maximum seated capacity, in accordance with any guidelines instituted by NJ TRANSIT operational divisions, provided that NJ TRANSIT adopts policies that include, at minimum, the following requirements:

   a. NJ TRANSIT shall continue to require infection control practices, such as coughing and sneezing etiquette, and proper tissue usage and disposal;

   b. NJ TRANSIT shall continue to arrange for contactless pay options across all modes of transportation wherever feasible. Such policies

shall, wherever possible, consider populations that do not have access to internet service;

c. To the extent physical barriers, such as a shield guard, cannot be installed that protect bus operators from interaction with customers, NJ TRANSIT shall continue to arrange for back door entry on buses wherever feasible, and take seats out of service near the bus operator to allow for proper social distancing from the bus operator wherever feasible;

d. NJ TRANSIT shall continue to require frequent sanitization of high-touch areas in stations, like restrooms, waiting areas, credit card machines, and keypads;

e. NJ TRANSIT shall continue to place conspicuous signage at stations and throughout train cars, buses, and light rail vehicles, if applicable, alerting workers and customers to the need for social distancing;

f. NJ TRANSIT shall continue to require workers and customers to wear cloth face coverings while on trains, buses, and light rail vehicles except where doing so would inhibit that individual's health or where the individual is under two years of age, and require workers to wear gloves when in contact with customers. NJ TRANSIT must provide, at its expense, such face coverings and gloves for their workers, to the extent supplies are available. If a customer refuses to wear a cloth face covering for non-medical reasons, then NJ TRANSIT workers

may decline entry to the individual, in accordance with any guidelines instituted by NJ TRANSIT operational divisions. Nothing in the stated policy should prevent workers or customers from wearing a surgical-grade mask or other more protective face covering if the individual is already in possession of such equipment, or if NJ TRANSIT 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 a train, bus, or light rail vehicle due to a medical condition that inhibits such usage, neither NJ TRANSIT nor its workers shall require the individual to produce medical documentation verifying the stated condition;

g. In accordance with Paragraph 3 of Executive Order No. 163 (2020), require workers and customers to wear cloth face coverings while in the indoor portion of any stations, facilities, or premises owned or operated by NJ TRANSIT, except where doing so would inhibit that individual's health or where the individual is under two years of age. If a customer refuses to wear a cloth face covering for non-medical reasons, then NJ TRANSIT workers may decline entry to the individual, in accordance with any guidelines instituted by NJ TRANSIT operational divisions. Nothing in the stated policy should prevent workers or customers from wearing a surgical-grade mask or other more protective face

covering if the individual is already in possession of such equipment, or if NJ TRANSIT 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 in the indoor portion of any stations, facilities, or premises owned or operated by NJ TRANSIT due to a medical condition that inhibits such usage, neither NJ TRANSIT nor its workers shall require the individual to produce medical documentation verifying the stated condition;

h. NJ Transit shall prohibit the consumption of food or beverages and smoking in trains, buses, and light rail vehicles; and

i. In accordance with Paragraph 1 of Executive Order No. 163 (2020), when it is not practicable for individuals in the outdoor portion of any stations, facilities, or premises owned or operated by NJ TRANSIT to socially distance and keep a six-foot distance from others, excluding immediate family members, caretakers, household members, or romantic partners, consistent with Paragraph 3 of Executive Order No. 107 (2020), all individuals shall wear face coverings. This requirement shall not apply when wearing a face covering would inhibit that individual’s health, and in other situations where the presence of a mask would pose a risk to the individual’s safety, or where the individual is under two years of age.

2. Private Carriers may open their buses and light rail vehicles to the stated maximum seated capacity in accordance with the terms of their contracts with NJ TRANSIT and in accordance with any guidelines instituted by the Private Carriers in consultation with NJ TRANSIT operational divisions, provided that Private Carriers adopt policies that include, at minimum, the following requirements:

a. Private Carriers shall continue to require infection control practices, such as coughing and sneezing etiquette, and proper tissue usage and disposal;

b. Private Carriers shall continue to arrange for contactless pay options across all modes of transportation that the Private Carriers operate wherever feasible. Such policies shall, wherever possible, consider populations that do not have access to internet service;

c. To the extent physical barriers, such as a shield guard, cannot be installed to protect bus operators from interaction with customers, Private Carriers shall continue to arrange for back door entry on buses wherever feasible, and take seats out of service near the bus operator wherever feasible to allow for proper social distancing from the bus operator;

d. Private Carriers shall continue to place conspicuous signage throughout buses and light rail vehicles, if applicable, alerting workers and customers to the need for social distancing;

e. Private Carriers shall continue to require workers and customers to wear cloth face coverings while on buses and light rail vehicles except where doing so would inhibit that individual's health or where the individual is under two years of age, and require workers to wear gloves when in contact with customers. Private Carriers must provide, at their own expense, such face coverings and gloves for their workers, to the extent supplies are available. If a customer refuses to wear a cloth face covering for non-medical reasons, then Private Carrier workers may decline entry to the individual, in accordance with any guidelines instituted by the Private Carriers in consultation with NJ TRANSIT operational divisions. Nothing in the stated policy should prevent workers or customers 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 Private Carriers are 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 a bus or light rail vehicle due to a medical condition that inhibits such usage, neither Private Carriers nor any of their workers shall require the individual to produce medical documentation verifying the stated condition;

f. In accordance with Paragraph 3 of Executive Order No. 163 (2020), require workers and customers to wear cloth face coverings while in the indoor portion of any stations, facilities, or premises owned or operated by Private Carriers, except where doing so would inhibit that individual's health or where the individual is under two years of age. If a customer refuses to wear a cloth face covering for non-medical reasons, then Private Carrier workers may decline entry to the individual, in accordance with any guidelines instituted by Private Carriers in consultation with NJ TRANSIT operational divisions. Nothing in the stated policy should prevent workers or customers from wearing a surgical-grade mask or other more protective face covering if the individual is already in possession of such equipment, or if Private Carriers are 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 in the indoor portion of any stations, facilities, or premises owned or operated by Private Carriers due to a medical condition that inhibits such usage, neither Private Carriers nor any of their workers shall require the individual to produce medical documentation verifying the stated condition;

g. Private Carriers shall prohibit consumption of food or beverages and smoking in buses and light rail vehicles; and

h. In accordance with Paragraph 1 of Executive Order No. 163 (2020), when it is not practicable for individuals in the outdoor portion of any stations, facilities, or premises owned or operated by Private Carriers to socially distance and keep a six-foot distance from others, excluding immediate family members, caretakers, household members, or romantic partners, consistent with Paragraph 3 of Executive Order No. 107 (2020), all individuals shall wear face coverings. This requirement shall not apply when wearing a face covering would inhibit that individual's health, and in other situations where the presence of a mask would pose a risk to the individual's safety, or where the individual is under two years of age.

3. Unaffiliated Private Carriers may open their buses to the stated maximum seated capacity, in accordance with any guidelines instituted by the Unaffiliated Private Carriers, provided that Unaffiliated Private Carriers adopt policies that include, at minimum, the following requirements:

a. Unaffiliated Private Carriers shall continue to require infection control practices, such as regular hand washing, coughing and sneezing etiquette, and proper tissue usage and disposal;

b. Unaffiliated Private Carriers shall continue to arrange for contactless pay options across all modes of transportation that the Unaffiliated Private Carriers operate wherever feasible. Such policies shall, wherever possible, consider

populations that do not have access to internet service;

c. To the extent physical barriers, such as a shield guard, cannot be installed protecting bus operators from interaction with customers, Unaffiliated Private Carriers shall continue to arrange for back door entry on buses wherever feasible, and take seats out of service near the bus operator wherever feasible to allow for proper social distancing from the bus operator;

d. Unaffiliated Private Carriers shall continue to place conspicuous signage throughout buses, if applicable, alerting workers and customers to the need for social distancing;

e. Unaffiliated Private Carriers shall continue to require workers and customers to wear cloth face coverings while on buses except where doing so would inhibit that individual's health or where the individual is under two years of age, and require workers to wear gloves when in contact with customers. Unaffiliated Private Carriers must provide, at their own expense, such face coverings and gloves for their workers, to the extent supplies are available. If a customer refuses to wear a cloth face covering for non-medical reasons, then Unaffiliated Private Carrier workers may decline entry to the individual, in accordance with any guidelines instituted by the Unaffiliated Private Carriers. Nothing in the stated policy should prevent workers or customers 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 Unaffiliated Private Carriers are 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 a bus due to a medical condition that inhibits such usage, neither Unaffiliated Private Carriers nor any of their workers shall require the individual to produce medical documentation verifying the stated condition;

f. In accordance with Paragraph 3 of Executive Order No. 163 (2020), require workers and customers to wear cloth face coverings while in the indoor portion of any stations, facilities, or premises owned or operated by Unaffiliated Private Carriers, except where doing so would inhibit that individual's health or where the individual is under two years of age. If a customer refuses to wear a cloth face covering for non-medical reasons, then Unaffiliated Private Carrier workers may decline entry to the individual, in accordance with any guidelines instituted by the Unaffiliated Private Carriers. Nothing in the stated policy should prevent workers or customers from wearing a surgical-grade mask or other more protective face covering if the individual is already in possession of such equipment, or if Unaffiliated Private Carriers are 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 in the indoor portion of any stations, facilities, or premises owned or operated by Unaffiliated Private Carriers due to a medical condition that inhibits such usage, neither Unaffiliated Private Carriers nor any of their workers shall require the individual to produce medicandal documentation verifying the stated condition;

g. Unaffiliated Private Carriers shall prohibit the consumption of food or beverage and smoking on buses; and

h. In accordance with Paragraph 1 of Executive Order No. 163 (2020), when it is not practicable for individuals in the outdoor portion of any stations, facilities, or premises owned or operated by Unaffiliated Private Carriers to socially distance and keep a six-foot distance from others, excluding immediate family members, caretakers, household members, or romantic partners, consistent with Paragraph 3 of Executive Order No. 107 (2020), all individuals shall wear face coverings. This requirement shall not apply when wearing a face covering would inhibit that individual’s health, and in other situations where the presence of a mask would pose a risk to the individual’s safety, or where the individual is under two years of age.

4. Paratransit Private Carriers may open their Access Link vehicles to the stated maximum seated capacity in accordance with the terms of their contracts with NJ TRANSIT, and in accordance with any guidelines instituted by the Paratransit Private Carriers in consultation with NJ TRANSIT operational divisions, provided that Paratransit Private Carriers adopt policies that include, at minimum, the following requirements:

a. Paratransit Private Carriers shall continue to require infection control practices, such as coughing and sneezing etiquette, and proper tissue usage and disposal;

b. Paratransit Private Carriers shall continue to arrange for contactless pay options, including EZ Wallet, across all modes of transportation that the Paratransit Private Carriers operate wherever feasible. Such policies shall, wherever possible, consider populations that do not have access to internet service;

c. Paratransit Private Carriers shall continue to place conspicuous signage throughout Access Link vehicles, if applicable, alerting workers and customers to the need for social distancing;

d. Paratransit Private Carriers shall continue to require workers and customers to wear cloth face coverings while on all Access Link vehicles except where doing so would inhibit that individual's health or where the individual is under two years of age, and require workers to wear gloves when in contact with customers. Paratransit Private Carriers must provide, at their own expense, such

face coverings and gloves for their workers, to the extent supplies are available. If a customer refuses to wear a cloth face covering for non-medical reasons, then Paratransit Private Carriers may decline entry to the individual, in accordance with any guidelines instituted by the Paratransit Private Carriers in consultation with NJ TRANSIT operational divisions. Nothing in the stated policy should prevent workers or customers 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 Paratransit Private Carriers are 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 an Access Link vehicle due to a medical condition that inhibits such usage, neither Paratransit Private Carriers nor any of their workers shall require the individual to produce medical documentation verifying the stated condition; and

e. Paratransit Private Carriers shall prohibit the consumption of food or beverages and smoking on Access Link vehicles.

5. Employer Provided Transportation Services may operate their vehicles, up to the stated seated maximum capacity, provided that these entities adopt policies that include, at minimum, the following requirements:

a. Require infection control practices, such as coughing and sneezing etiquette, and proper tissue usage and disposal;

b. Place conspicuous signage throughout vehicles, if applicable, alerting workers and customers to the need for social distancing;

c. Require workers to wear cloth face coverings while on all vehicles except where doing so would inhibit that individual's health or where the individual is under two years of age, and require drivers to wear gloves when in contact with workers. These employers must provide, at their own expense, such face coverings and gloves for their drivers and workers, to the extent supplies are available. If a worker refuses to wear a cloth face covering for non-medical reasons, then these employers may decline entry to the individual, in accordance with any guidelines instituted by these employers that provide such transportation services. 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 these employers are 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 Employer Provided Transportation Service vehicles due to a medical condition that inhibits such usage, neither these employers nor any of their

drivers shall require the individual to produce medical documentation verifying the stated condition; and

d. Employer Provided Transportation Services shall prohibit the consumption of food or beverages and smoking on their vehicles.

6. Individuals who ride public transportation should abide by best social distancing practices, including making all efforts to stand or sit six feet away from other riders where practicable and frequently using sanitizing products. Paragraph 4 of Executive Order No. 107 (2020) is hereby superseded.

7. 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.

8. 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 Order, and to cooperate fully with Administrative Orders issued pursuant to this Order.

9. 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 with any of the provisions of any subsequent Administrative Orders adopted pursuant to this Order, or which will or might in

any way interfere with or impede the achievement of any or all of these Orders.

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

This Order shall take effect beginning at 8:00 p.m. on Wednesday, July 15, 2020, and shall remain in effect until revoked or modified by the Governor, who shall consult with the Commissioner of DOH as appropriate.

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

[seal]

/s/ Philip D. Murphy

Governor

Attest:

/s/ Matthew J. Platkin

Chief Counsel to the Governor