EXECUTIVE ORDER NO. 196

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, 162, 171, 180, 186, and 191, issued on April 7, 2020, May 6, 2020, June 4, 2020, July 2, 2020, August 1, 2020, August 27, 2020, September 25, 2020, and October 24, 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 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, Nos. 135-138, Nos. 140-166, Nos. 168-173, No. 175, Nos. 177-181, No. 183, Nos. 186-187 and Nos. 189-195 (2020), the facts and circumstances of which are all adopted by reference herein; 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 Centers for Disease Control and Prevention ("CDC") has issued guidance for mass gatherings or large community events, such as conferences, festivals, parades, concerts, sporting events, and other potentially super-spreading events, recognizing that gatherings can significantly contribute to the spread of COVID-19 and introduce the virus to new communities through increased transmission to a large number of people in a short period of time, and states throughout the region previously canceled all such events; and

WHEREAS, the CDC recognizes that the stringency of any limit on gatherings should be tailored to the significance of COVID-19 transmission in the State and region, meaning that as the spread of COVID-19 fluctuates in a state, that state can adjust its limits on indoor and outdoor gatherings accordingly; and

WHEREAS, consistent with the above principles, I signed a series of Executive Orders gradually lifting restrictions on both outdoor and indoor gatherings; and

WHEREAS, the most recent of which, Executive Order No. 183, issued on September 1, 2020, limited the number of individuals at indoor gatherings that are not religious services or celebrations, political activities, wedding ceremonies, funerals, or memorial services to 25 percent of the capacity of the room in which it takes place, but regardless of the capacity of the room, such limit shall never be larger than 25 persons or smaller than 10 persons; and

WHEREAS, the limitations on outdoor gatherings have not been altered since Executive Order No. 161, issued on July 2, 2020, which limited the number of individuals at such a gathering to 500 persons

or fewer and clarified that an outdoor gathering that is a religious service or political activity, such as a protest, is not required to comply with the numerical limit on persons; and

WHEREAS, the State has experienced recent upticks in the number of cases and hospitalizations across all counties; and

WHEREAS, approximately 13 percent of all outbreaks in New Jersey between March 20 through November 1 can be attributed to private gatherings, consistent with the role indoor gatherings have played in leading to further spikes of COVID-19 in other states and countries; and

WHEREAS, the combination of evidence tracing clusters of COVID-19 to gatherings and the overall statewide increase in the rate of transmission means that it is appropriate to reduce the limits on gatherings at the current time; and

WHEREAS, certain gatherings, including religious services and political activity, are constitutionally protected activities, and restrictions on these gatherings should be less aggressive than restrictions on other gatherings, as other states have repeatedly recognized; and

WHEREAS, legislative and judicial proceedings are particularly important to the functioning of the State, the latter of which implicates constitutional rights and foundational privileges, and so can proceed with less restrictive limits; and

WHEREAS, certain events such as wedding ceremonies, funerals, and memorial services, whether religious in nature or not, which typically happen once in a lifetime, provide benefits to the well-being of the participants such that they can be treated differently from casual social gatherings such as house parties and birthday parties, which occur on a more frequent basis and typically do not present the same compelling need; and

WHEREAS, indoor wedding ceremonies and memorial services may have been planned under the current capacity limits, and often with social distancing protocols set up well in advance, and therefore suddenly changing the applicable limits for these events would be highly disruptive; and

WHEREAS, events such as wedding ceremonies, funerals, and memorial services typically include a defined list of attendees, which makes it easier for contract tracing to occur; and

WHEREAS, the informal nature of large house parties also makes it especially hard to engage in contact tracing, as well as to monitor and to enforce the requirements to wear masks and engage in social distancing, which stands in sharp contrast to wedding ceremonies, funerals, and memorial services; and

WHEREAS, reducing the limits on indoor gatherings other than religious services or celebrations, political activities, wedding ceremonies, funerals, and memorial services from a maximum of 25 persons to a maximum of 10 persons will both help reduce the spread of COVID-19 and reduce the burden on our contact tracing program; and

WHEREAS, certain sports practices and competitions require more than 10 individuals to be present, when accounting for players, coaches, referees, and other necessary individuals, and the formal nature of such events makes it easier to ensure that health and safety protocols are being appropriately followed; and

WHEREAS, college and university athletic programs and professional athletic teams, leagues, and organizations, are readily able to establish comprehensive protocols for the athletes participating within their programs, including by placing limitations on outside activities, subjecting participants to regular testing, and requiring athletes to reside in a specified location; and

WHEREAS, while there is generally less risk associated with outdoor gatherings, it is likewise appropriate to lower the outdoor gatherings limit in our State to no more than 150 people to prevent increased transmission through super-spreading events and large community gatherings; and

WHEREAS, all gatherings, whatever their nature, must continue to utilize protective measures, including use of masks and social distancing; and

WHEREAS, because of the severity of the decrease of the limit on outdoor gatherings, as compared with the limit on indoor gatherings, the effective date of that provision will be delayed by approximately one week to avoid significant disruption of prescheduled activities; 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. Paragraph 4 of Executive Order No. 183 (2020) is hereby rescinded and the number of individuals at indoor gatherings that are not religious services or celebrations, political activities, wedding ceremonies, funerals, or memorial services shall be limited to 10 persons. The number of individuals at indoor gatherings that are religious services or celebrations, political activities, wedding ceremonies, funerals, or memorial services shall be limited to 25 percent of the capacity of the room in which it takes place, but

regardless of the capacity of the room, such limit shall never be larger than 150 persons or smaller than 10 persons. For purposes of this Paragraph, any private residence or residential unit shall be treated as a single "room". Legislative proceedings of state, county, or local government, including local Boards of Education, and state and local judicial proceedings are not subject to the capacity limits on gatherings in this or any other applicable Executive Order.

2. Professional and collegiate athletic competitions that are conducted indoors are subject to the current indoor gathering limit of 10 persons. Athletes, coaches, referees, and trainers, and other individuals who are necessary for the competitive professional or collegiate sporting event are not included in the number of individuals present at a gathering for purposes of the limits on gatherings. The number of individuals present inside facilities where indoor professional or collegiate athletic competitions are taking place may not exceed 25 percent of the capacity of the room in which it takes place, and such limit may not exceed 150 persons. The provisions of Paragraph 1 of Administrative Order No. 2020-22 regarding indoor gatherings shall continue to apply.

3. All other athletic practices and competitions that are conducted indoors are subject to the current indoor gathering limit of 10 persons. However, if the number of individuals who are necessary for a no-contact practice, contact practice, or competition, such as players, coaches, and referees, is greater than 10 persons, such a practice or competition may proceed, as long as no individuals are present who are not necessary for the practice or competition, such as spectators. If this exception applies, the number of individuals at such an indoor gathering still may not exceed 25 percent of the capacity of the room in which it takes place, and such limit may not exceed 150 persons. Paragraph 2 of Executive Order No. 187 (2020) is hereby rescinded.

4. While the numerical limits on indoor gatherings in Paragraph 4 of Executive Order No. 183 (2020) are rescinded, all other requirements for indoor gatherings outlined in Paragraphs 5 and 6 of Executive Order No. 183 (2020), including those provisions that incorporate by reference the requirements of Paragraph 1 of Executive Order No. 152 (2020), shall remain in effect.

5. Any requirements in any Executive Order, Administrative Order, or agency directive that incorporated by reference the gatherings limits in Executive Order Nos. 107, 142, 148, 152, 156, 161, 173, or 183 (2020) are amended to reflect the rules on gatherings stated in this Order.

6. Paragraph 2 of Executive Order No. 183 (2020) shall remain in effect.

7. Paragraph 1 of Executive Order No. 161 (2020) is hereby rescinded and the number of individuals at outdoor gatherings shall be limited to 150 persons or fewer. All other requirements for outdoor gatherings contained in Paragraph 1 of Executive Order No. 161 (2020), including the requirements of Paragraph 2 of Executive Order No. 152 (2020) incorporated by reference therein, shall remain in effect. An outdoor gathering that is a religious service or celebration, political activity, wedding ceremony, funeral, or memorial service is not required to comply with the numerical limit on persons.

8. Outdoor entertainment centers where performances are viewed or given, including movie theaters, performing arts centers, and other concert venues, must limit the number of patrons in any outdoor area where a performance is viewed or given to a number that ensures that all individuals can remain six feet apart, but such limit shall never be larger than 150 persons.

9. Professional and collegiate athletic competitions that are conducted outdoors are subject to the outdoor gathering limit of 150 persons. Athletes, coaches, referees, and trainers, and other individuals who are necessary for the competitive professional or collegiate sporting event are not included in the number of individuals present at a gathering for purposes of the limits on gatherings. The provisions of Paragraph 1 of Administrative Order No. 2020-22 regarding outdoor gatherings shall continue to apply.

10. All other sports practices and competitions that are conducted outdoors are subject to the outdoor gathering limit of 150 persons, inclusive of athletes, coaches, referees, and trainers.

11. 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.

12. 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.

13. 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 its achievement.

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

15. Paragraphs 1 – 6 of this Order regarding the indoor gathering limit shall take effect at 6:00 a.m. on Tuesday, November 17, 2020, and Paragraphs 7 – 10 of this Order regarding the outdoor gathering limit shall take effect at 6:00 a.m. on Monday, November 23, 2020. This Order 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 16th day of November, 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/ Parimal Garg

Chief Counsel to the Governor