EXECUTIVE ORDER NO. 122

WHEREAS, through Executive Order No. 102 (2020), which I signed on February 3, 2020, I created the State's Coronavirus Task Force, chaired by the Commissioner of the New Jersey Department of Health ("DOH"), in order to coordinate the State's efforts to appropriately prepare for and respond to the public health hazard posed by Coronavirus disease 2019 ("COVID-19"); and

WHEREAS, on March 9, 2020, through Executive Order No. 103 (2020), the facts and circumstances of which are adopted by reference herein, I declared both a Public Health Emergency and a State of Emergency throughout the State due to the public health hazard created by COVID-19; and

WHEREAS, on April 7, 2020, I issued Executive Order No. 119 (2020), which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; 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, on March 16, 2020, through Executive Order No. 104 (2020), the facts and circumstances of which are adopted by reference herein, I established statewide social mitigation strategies for combatting COVID-19; and

WHEREAS, in recognition that the Centers for Disease Control and Prevention ("CDC") 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), on March 21, 2020, the facts and circumstances of which are adopted by reference herein, which ordered steps to mitigate community spread of COVID-19; and

WHEREAS, Executive Order No. 107 (2020) closed non-essential retail businesses to the public, but permitted essential retail businesses and other businesses that require an in-person workforce to continue to operate; and

WHEREAS, Executive Order No. 107 (2020) institutes clear parameters on essential retail businesses that are permitted to operate and requires that all businesses or non-profits utilize telework or work-from-home arrangements wherever practicable; and

WHEREAS, Executive Order No. 107 (2020) stated that businesses or non-profits who have employees who cannot perform their functions via telework or work-from-home arrangements should make best efforts to reduce staff on site to the minimal number necessary to ensure that essential operations can continue; and

WHEREAS, Executive Order No. 107 (2020) noted that examples of such workers who need to be physically present at their work site include construction workers; and

WHEREAS, construction sites are inherently difficult environments for social distancing to occur, as they frequently require large numbers of individuals to touch the same surfaces, gather closely together in areas such as service elevators, and use common facilities such as portable restrooms; and

WHEREAS, while some construction is needed to expand our health care system’s capacity, address immediate infrastructure deficiencies, and prevent future disruptions in various areas such as education, housing, and transportation, which are themselves tied to the public health and safety, other construction projects do not need to proceed immediately and should be postponed in light of public health considerations; and

WHEREAS, essential retail businesses continue to deliver critical goods like food and medical supplies to the State’s residents; and

WHEREAS, the State's manufacturing and warehousing businesses, where essential goods are made and/or stored before delivery to the retail business or consumer, continue to provide a vital service to the public by fueling our supply chain and continue to contribute to New Jersey's response to the present pandemic; and

WHEREAS, on April 7, 2020, I issued Executive Order No. 119 (2020), which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, as of April 7, 2020, according to the World Health Organization, there were more than 1,279,000 confirmed cases of COVID-19 worldwide, with over 72,000 of those cases having resulted in death; and

WHEREAS, as of April 7, 2020, according to the Centers for Disease Control, there were more than 374,000 confirmed cases of COVID-19 in the United States, with over 12,000 of those cases having resulted in death; and

WHEREAS, as of April 7, 2020, there were over 44,400 positive cases of COVID-19 in New Jersey, with at least 1,232 of those cases having resulted in death; and

WHEREAS, workers at essential retail businesses are continually exposed to members of the public, increasing their risk of exposure to COVID-19; and

WHEREAS, workers in the manufacturing, warehousing, and construction industries are typically forced to work in close contact with other individuals and regularly come into contact with goods, materials, and equipment that is delivered or accessible to members of the public; and

WHEREAS, even as we have limited essential business operations, the number of COVID-19 cases in New Jersey is anticipated to continue to increase for the immediate future,

meaning we must take additional steps to ensure that businesses are following public health guidelines regarding social distancing, cleaning, sanitizing, and hygiene practices; and

WHEREAS, imposing specific mitigation requirements on these industries will permit members of the public to access essential goods and services while also preventing increased spread of COVID-19; and

WHEREAS, the CDC has stated that such cloth face coverings must fit snugly but comfortably against the side of the face, be secured with ties or ear loops, include multiple layers of fabric, allow for breathing without restriction, and be able to be laundered and machine dried without damage or change to shape; and

WHEREAS, the CDC has also stated that cloth face coverings should not be placed on young children under age 2, anyone who has trouble breathing, or is unconscious, incapacitated or otherwise unable to remove the mask without assistance; and

WHEREAS, the CDC has stated that older adults and people of any age who have serious underlying medical conditions might be at higher risk for severe illness from COVID-19; and

WHEREAS, the CDC has now recommended that all residents wear cloth face coverings in public settings where other social distancing measures are difficult to maintain, such as grocery stores and pharmacies, 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, the CDC has stated that older adults and people of any age who have serious underlying medical conditions might be at higher risk for severe illness from COVID-19; 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. Where an essential retail business is permitted to maintain in-person operations pursuant to Executive Order No. 107 (2020) and any subsequent Administrative Orders, such business must adopt policies that include, at minimum, the following requirements:

a. Limit occupancy at 50% of the stated maximum store capacity, if applicable, at one time;

b. Establish hours of operation, wherever possible, that permit access solely to high-risk individuals, as defined by the CDC;

c. Install a physical barrier, such as a shield guard, between customers and cashiers/baggers wherever feasible or otherwise ensure six feet of distance between those individuals, except at the moment of payment and/or exchange of goods;

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

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

f. Arrange for contactless pay options, pickup, and/or delivery of goods wherever feasible. Such policies shall, wherever possible, consider populations that do not have access to internet service;

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

h. Require frequent sanitization of high-touch areas like restrooms, credit card machines, keypads, counters and shopping carts;

i. Place conspicuous signage at entrances and throughout the store, if applicable, alerting staff and customers to the required six feet of physical distance;

j. Demarcate six feet of spacing in check-out lines to demonstrate appropriate spacing for social distancing; and

k. Require workers and customers to wear cloth face coverings while on the premises, 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 or goods. Businesses must provide, at their expense, such face coverings and gloves for their employees. If a customer 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, unless the business is providing medication,

medical supplies, or food, in which case the business policy should provide alternate methods of pickup and/or delivery of such goods. 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 business 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 store premises due to a medical condition that inhibits such usage, neither the essential retail business nor its staff shall require the individual to produce medical documentation verifying the stated condition.

2. The physical operations of all non-essential construction projects shall cease when this Order takes effect. "Essential construction projects" shall be defined as the following:

a. Projects necessary for the delivery of health care services, including but not limited to hospitals, other health care facilities, and pharmaceutical manufacturing facilities;

b. Transportation projects, including roads, bridges, and mass transit facilities or physical infrastructure, including work done at airports or seaports;

c. Utility projects, including those necessary for energy and electricity production and transmission, and any decommissioning of

facilities used for electricity generation;

d. Residential projects that are exclusively designated as affordable housing;

e. Projects involving pre-K-12 schools, including but not limited to projects in Schools Development Authority districts, and projects involving higher education facilities;

f. Projects already underway involving individual single-family homes, or an individual apartment unit where an individual already resides, with a construction crew of 5 or fewer individuals. This includes additions to single-family homes such as solar panels;

g. Projects already underway involving a residential unit for which a tenant or buyer has already entered into a legally binding agreement to occupy the unit by a certain date, and construction is necessary to ensure the unit's availability by that date;

h. Projects involving facilities at which any one or more of the following takes place: the manufacture, distribution, storage, or servicing of goods or products that are sold by online retail businesses or essential retail businesses, as defined by Executive Order No. 107 (2020) and subsequent Administrative Orders adopted pursuant to that Order;

i. Projects involving data centers or facilities that are critical to a business's ability to function;

j. Projects necessary for the delivery of essential social services, including homeless shelters;

k. Any project necessary to support law enforcement agencies or first responder units in their response to the COVID-19 emergency;

l. Any project that is ordered or contracted for by Federal, State, county, or municipal government, or any project that must be completed to meet a deadline established by the Federal government;

m. Any work on a non-essential construction project that is required to physically secure the site of the project, ensure the structural integrity of any buildings on the site, abate any hazards that would exist on the site if the construction were to remain in its current condition, remediate a site, or otherwise ensure that the site and any buildings therein are appropriately protected and safe during the suspension of the project; and

n. Any emergency repairs necessary to ensure the health and safety of residents.

3. Manufacturing businesses, warehousing businesses, and businesses engaged in essential construction projects must adopt policies that include, at minimum, the following requirements:

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

b. Limit worksite meetings, inductions, and workgroups to groups of fewer than ten individuals;

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

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

e. 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;

f. Restrict the number of individuals who can access common areas, such as restrooms and breakrooms, concurrently;

g. 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;

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

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

j. Provide sanitization materials, such as hand sanitizer and sanitizing wipes, to workers and visitors; and

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

4. All essential retail businesses, warehousing businesses, manufacturing businesses, and businesses performing essential construction projects must also adopt policies that include, at minimum, the following requirements:

a. Immediately separate and send home workers who appear to have symptoms consistent with COVID-19 illness upon arrival at work or who become sick during the day;

b. Promptly notify workers of any known exposure to COVID-19 at the worksite, consistent with the confidentiality requirements of the Americans with Disabilities Act and any other applicable laws;

c. Clean and disinfect the worksite in accordance with CDC guidelines when a worker at the site has been diagnosed with COVID-19 illness; and

d. Continue to follow guidelines and directives issued by the New Jersey Department of Health, the CDC and the Occupational Health and Safety Administration, as applicable, for maintaining a clean, safe and healthy work environment.

5. Where a business is authorized to maintain in-person operations pursuant to Executive Order No. 107 (2020) and subsequent Administrative Orders, owners of buildings used for commercial, industrial or other enterprises, including but not limited to facilities for warehousing, manufacturing, commercial offices, airports, grocery stores, universities, colleges, government, hotels, and residential buildings with at least 50 units, shall adopt policies that, at minimum, implement the following cleaning protocols in areas where operations are conducted:

a. Clean and disinfect high-touch areas routinely in accordance with CDC guidelines, particularly in spaces that are accessible to staff, customers, tenants, or other individuals, and ensure cleaning procedures following a known or potential exposure in a facility are in compliance with CDC recommendations;

b. Otherwise maintain cleaning procedures in all other areas of the facility; and

c. Ensure that the facility has a sufficient number of workers to perform the above protocols effectively and in a manner that ensures the safety of occupants, visitors, and workers.

6. The State Director of Emergency Management ("State Director"), 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.

7. 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.

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

9. This Order shall take effect beginning at 8:00 p.m. on Friday, April 10, 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 8th day of April, 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