EXECUTIVE ORDER NO. 163

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 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, and Nos. 140-162 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, to further limit community spread from person-to-person contact through use of social mitigation measures, Executive Order No. 107 (2020) closed all non-essential

retail businesses, as well as all recreational and entertainment businesses, and limited all restaurants, dining establishments, and food courts, with or without a liquor license, all bars, and all other holders of a liquor license with retail consumption privileges, to offering food delivery and/or take-out services only; 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, the State began to take 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, 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, 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, food and beverage establishments, personal care service facilities, and mass transit, among others, reflecting the State's judgment that face coverings are needed to prevent the spread of COVID-19 in indoor areas; and

WHEREAS, while office buildings may have policies that allow for flexibility regarding employees who may not be interacting with others for certain periods during the workday, they should ensure that individuals who are in prolonged proximity are wearing face coverings to reduce the risk of COVID-19 transmission; and

WHEREAS, the Commissioner of the Department of Health has established appropriate policies concerning use of face coverings at child care centers, other child care facilities, and youth summer camps; and

WHEREAS, as the season has turned to summer and the State has reopened many businesses and activities, we have seen more and more examples of crowded outdoor settings, including at outdoor bars, beaches, and boardwalks; and

WHEREAS, while the risk of transmission is significantly lower in outdoor settings than in indoor settings, concentrations of individuals in close proximity outdoors who are unable to socially distance still create a danger that COVID-19 can spread from person-to-person; and

WHEREAS, in such outdoor settings, the risk of transmission is significantly reduced when individuals wear face coverings if they are unable to socially distance; and

WHEREAS, public health authorities advise against wearing a face covering when engaging in high intensity aerobic or anaerobic workouts, while in the water, and in certain other circumstances in which the mask could pose a safety hazard; and

WHEREAS, in light of public health guidance and further review, the definition of outdoor areas can be amended for purposes of outdoor dining, recreation, and entertainment, consistent with the approach taken in other states, to include areas that have a fixed roof but have at least two open sides comprising over 50 percent of the wall space, thus providing sufficient natural airflow; 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. When it is not practicable for individuals in outdoor public spaces 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, including when engaging in high intensity aerobic or anaerobic activities,

when in the water, 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. The requirement in Paragraph 1 of this Order shall not apply in situations where individuals cannot feasibly wear a face covering, such as when individuals are eating or drinking at outdoor dining areas, or when individuals need to briefly remove their face coverings for religious reasons. In addition, for purposes of Paragraph 1 of this Order, "outdoor public spaces" do not include child care centers, other child care facilities, and youth summer camps, which continue to be governed by Executive Order No. 149 (2020) and applicable standards issued by the Commissioner of the Department of Health.

3. As provided for in Executive Order Nos. 122, 125, 135, 142, 152, 154, 155, and 157 (2020), all individuals shall continue to wear face coverings in indoor spaces that are accessible to members of the public, such as retail, recreational, and entertainment businesses, areas of government buildings open to the public, and mass transit buses, trains, and stations, except when doing so would inhibit the individual's health, including when engaging in high intensity aerobic or anaerobic activities, when in the water, 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. For indoor commercial spaces that are not open to members of the public, such as office buildings, those spaces must have policies that at a minimum, require individuals to wear face coverings when in prolonged proximity to others. This Paragraph does not apply to child care centers, other child care facilities, and youth summer camps, which

continue to be governed by Executive Order No. 149 (2020) and applicable standards issued by the Commissioner of the Department of Health.

4. The definition of "outdoor areas" in Paragraph 4 of Executive Order No. 156 (2020) and Paragraph 4 of Executive Order No. 157 (2020) is hereby superseded. Provided that they comply with the requirements of Paragraph 4 of Executive Order No. 157 (2020), food or beverage establishments are permitted to offer in-person service at outdoor areas, defined as open air spaces that either 1) have no roof or cover or 2) have a fixed roof or temporary or seasonal awning or cover, with at least two open sides that would comprise over 50 percent of the total wall space if the space were fully enclosed.

5. The definition of "outdoor areas" in Paragraph 4, above, shall apply to recreational and entertainment businesses that open their outdoor premises to the public in accordance with the requirements of Paragraph 7 of Executive Order No. 157 (2020).

6. Practices and competitions for sports defined as "Low Risk" in the Department of Health's "Guidance for Sports Activities" are permitted in both outdoor and indoor settings. No-contact practices for sports defined as "High or Medium Risk" in the Department of Health's "Guidance for Sports Activities" are permitted to resume in outdoor and indoor settings. Contact practices and competitions for sports defined as "Medium Risk" in the Department of Health's "Guidance for Sports Activities" are permitted to resume in outdoor settings only. Contact practices and competitions for sports defined as "High Risk" in the Department of Health's "Guidance for Sports Activities" remain prohibited in both indoor and outdoor settings. All activities

referenced in this Paragraph are subject to the "Guidance for Sports Activities" issued by the Commissioner of the Department of Health, and such activities must comply with all applicable laws, regulations, and Executive Orders, including restrictions on recreational and entertainment businesses in Paragraph 7 of Executive Order No. 157 (2020) and restrictions on gatherings in place at the time the sporting activities occur. Paragraph 13 of Executive Order No. 149 (2020) is superseded to the extent that it is inconsistent with the provisions of this Paragraph.

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.

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 which will or might in any way interfere with or impede its achievement.

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

11. This Order shall take effect immediately, and shall remain in effect until revoked or modified by the Governor, who shall consult with the Commissioner of the Department of Health as appropriate.

GIVEN, under my hand and seal this 8th 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