EXECUTIVE ORDER NO. 194

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. 189-193 (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 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, after consultation with officials from the Department of Health ("DOH"), I announced a multi-stage New Jersey's Road Back Plan (the "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 Plan and the subsequent steps the State has taken to allow various industries to reopen their brick-and-mortar premises to the public all reflect the recognition by public health experts that indoor environments present significantly increased risks of transmission as compared to outdoor environments, meaning that while it has been prudent to allow businesses to reopen outdoor areas to the public, the State has also reasonably imposed stricter social distancing limits on indoor premises when businesses are permitted to reopen them to the public; and

WHEREAS, consistent with the Plan, I issued Executive Order No. 150 (2020), which permitted restaurants, bars, and other food or beverage establishments to provide in-person dining outdoors, again with social distancing requirements; and

WHEREAS, because of the progress we had made in our fight against the COVID-19 pandemic in New Jersey, on Monday, June 22 2020, I announced that indoor dining would be able to

resume under strict limits as of Thursday, July 2, 2020, and that decision was formalized in Executive Order No. 157; and

WHEREAS, while Executive Order No. 157 (2020) announced the limited resumption of indoor dining, this step was put on hold in Executive Order No. 158 (2020), in light of COVID-19 spikes in states around the nation which state officials and other experts attributed, at least in part, to activities in indoor food and beverage establishments; and

WHEREAS, indoor dining was permitted to resume on September 4, 2020, pursuant to Executive Order No. 183; and

WHEREAS, personal care service facilities were permitted to reopen their premises to the public pursuant to Paragraph 2 of Executive Order No. 157 (2020); and

WHEREAS, Division of Consumer Affairs Administrative Order No. 2020-09 and subsequently No. 2020-11 limited the occupancy on premises of indoor facilities providing personal care services to indoor gathering limits; and

WHEREAS, because the State has long understood personal care services performed in indoor settings to be subject to the same indoor capacity limits imposed on recreational and entertainment businesses, but has recently received questions on this subject, it should be clarified that the same capacity limit applies, meaning 25 percent of the facility's indoor capacity; and

WHEREAS, on May 29, 2020, I signed Executive Order No. 149, which allowed organized sporting activities to resume on June 22, 2020, in outdoor settings, provided that they did not involve person-to-person contact or individuals routinely interacting in close proximity; and

WHEREAS, Executive Order No. 149 (2020) also directed the Commissioner of the DOH to issue health and safety standards regarding sporting activities before June 22, 2020; and

WHEREAS, on June 15, 2020, the Commissioner of DOH issued Guidance for Sports Activities ("Guidance") that stated that practices and competitions for Low Risk sports, as well as no-contact practices for Medium and High Risk sports, could resume on June 22, 2020 in outdoor settings, because pursuant to Executive Order No. 149 (2020), they do not involve person-to-person contact; and

WHEREAS, Medium and High Risk Sports were subsequently permitted to resume in outdoor and indoor settings with strict limitations on contact activities indoors; and

WHEREAS, on October 12, 2020, I issued Executive Order No. 187 (2020), which permitted contact practices and competitions for both Medium Risk and High Risk sports to resume in indoor settings, so that all sports activities are currently permitted to operate in indoor and outdoor settings subject to DOH guidance; and

WHEREAS, recent upticks in the number of confirmed cases of COVID-19 have increased dramatically, demonstrating more significant community spread; and

WHEREAS, the Centers for Disease Control and Prevention ("CDC") and DOH have maintained that congregation of individuals, particularly in indoor environments, is a contributing factor in the spread of COVID-19; and

WHEREAS, the institution of mitigation protocols limiting certain high-risk activities is necessary to combat the spread of the virus and lessen the need for more comprehensive restrictions; and

WHEREAS, the progress we made earlier this year demonstrates the effectiveness of such protocols, particularly those that prevented individuals from congregating indoors and encouraged avoidance of close contact in indoor settings, where the virus is more readily transmitted; and

WHEREAS, in the past eight months, we have gained critical knowledge in our experience with COVID-19, including a better understanding of the risks associated with certain activities and the safeguards that can be implemented to mitigate those risks; and

WHEREAS, this information, together with expanded access to testing, personal protective equipment, and other materials necessary to protect individuals from spread of the virus, allows us to permit certain activities to continue subject to more limited restrictions; and

WHEREAS, restricting the operating hours of the indoor portions of dining and drinking establishments, where consumers are authorized to remove their masks to eat and drink in an indoor setting, will limit congregation inside establishments that are frequently more crowded at late hours, particularly where drinking is taking place; and

WHEREAS, we are aware of at least one outbreak at a restaurant in New Jersey involving nine bartenders at a single location; and

WHEREAS, indoor bar service commonly results in individuals, including patrons, bartenders, and servers, remaining in close contact for extended periods of time; and

WHEREAS, bar service can be suspended to lessen the risk of spread between patrons and bartenders at restaurants and bars while still permitting seated table service that does not involve the same potential for sustained contact between customers and employees when businesses and customers follow health and safety protocols; and

WHEREAS, since the reopening of indoor contact competitions for Medium and High Risk sports, there have been eleven confirmed outbreaks amongst youth and school-aged ice hockey teams in New Jersey that are believed to be associated with hockey

activities, with additional investigations pending and more than one hundred cases believed to be associated with such activities; and

WHEREAS, a number of these outbreaks involved teams and leagues that regularly participate in interstate competitions; and

WHEREAS, health officials across the Northeast region have pointed to interstate youth sports competitions as a source of viral spread; and

WHEREAS, the CDC has advised that sports competitions between teams from different states involves the highest risk of COVID-19 spread of any sports activity; 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, 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. All restaurants, cafeterias, dining establishments, and food courts, with or without a liquor license; bars; and all other holders of a liquor license with retail consumption privileges,

collectively referred to as "food or beverage establishments," that are open to the public, must close their indoor operations to the public from 10:00 p.m. until 5:00 a.m. each day. Food or dining establishments are permitted to operate during their full range of normal business hours for outdoor dining and food delivery and/or take-out services. Casinos shall cease indoor food and beverage service between 10:00 p.m. and 5:00 a.m. each day, including service on casino floors. This restriction on hours of operation shall not apply to indoor dining in airports in New Jersey. Any retail, recreational, and entertainment business that is authorized to open its indoor premises to the public may only do so after 10:00 p.m. only where it prohibits the consumption of food or beverages in those indoor premises between the hours of 10:00 p.m. and 5:00 a.m.

2. Food and beverage establishments are prohibited from seating patrons at any indoor bar area. Food and beverage establishments may continue seating patrons at tables within their premises consistent with the requirements of Executive Order No. 183 (2020), Paragraph 1 of this Order, and guidance provided by DOH. In-person service to patrons standing in bar areas continues to be prohibited.

3. Food and beverage establishments that are permitted to offer in-person service at indoor areas must ensure that tables where individuals or groups are seated are six feet apart in all directions from any other table or seat. Where six feet of distance is not possible, establishments must erect barriers between tables pursuant to guidance issued by DOH, while still complying with the capacity limits in Executive Order No. 183 (2020). Paragraph 1(b) of Executive Order No. 183 (2020) is hereby superseded to the extent that it conflicts with the provisions of this Paragraph.

4. The definition of "outdoor areas" in Paragraph 4 of Executive Order No. 163 (2020) is updated to include the following:

a. Outdoor enclosed structures, such as plastic domes, to seat individual parties, provided they meet the following criteria:

i. The use of the structures complies with the requirements for outdoor dining contained in Executive Order No. 157 (2020) and associated guidance issued by DOH;

ii. Each party is limited to no more than eight individuals at a time;

iii. The structure is ventilated and cleaned and sanitized in accordance with CDC and DOH guidance between seatings;

iv. The structure and use of the structures otherwise comply with all other applicable codes and regulations, including the provisions of the Fire Safety Code; and

v. Any necessary municipal approvals and permits are obtained prior to use of the structure.

b. Such structures shall be considered "outdoor dining" for purposes of determining the establishment's capacity limitations as described in Executive Order No. 157 (2020) and Executive Order No. 183 (2020).

5. Indoor interstate youth sports competitions – including those operated by school-based, club, and recreational programs — are hereby suspended within the State. School-based, club, and recreational programs are also prohibited from hosting indoor interstate youth sports competitions outside of New Jersey, or

indoor youth sports competitions outside of New Jersey that would require New Jersey teams to travel to another state.

6. For purposes of this Order, "indoor interstate youth sports competition" includes any sports game, scrimmage, tournament, or similar competition that is conducted indoors with opposing teams or individuals from different states competing against each other and which would require an opposing team or individual to travel from a state outside of New Jersey.

7. This suspension shall not impact collegiate and professional sports activities, which are permitted to continue operations subject to compliance 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.

8. Personal care services authorized to reopen their indoor facilities to the public pursuant to Paragraph 2 of Executive Order No. 157 (2020) shall limit occupancy of any indoor premises to 25 percent of the stated maximum capacity, if applicable, at one time, excluding the facility's employees.

9. 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.

10. 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.

11. 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.

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

13. This Order shall take effect at 6:00 a.m. on Thursday, November 12, 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 10th 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