EXECUTIVE ORDER NO. 113

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, Executive Order No. 103 (2020) authorized and empowered the State Director of Emergency Management, who is the Superintendent of State Police, in conjunction with the Commissioner of DOH, to take any emergency measures as the State Director may determine necessary in order to fully and adequately protect the health, safety, and welfare of the citizens of New Jersey from any actual or potential threat or danger that may exist from the possible exposure to COVID-19; 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 23, 2020, I signed Executive Order No. 109 (2020), the facts and circumstances of which are adopted by reference herein, requiring that all businesses and non-hospital health care facilities submit an inventory to the State of the Personal Protective Equipment ("PPE"), ventilators, respirators, and anesthesia machines they have in their possession that are not required for the provision of critical health care services; and

WHEREAS, on March 28, 2020, I signed Executive Order No. 111 (2020), the facts and circumstances of which are adopted by reference herein, requiring health care facilities to report data concerning their capacity and supplies on a daily basis, including data relating to bed capacity, ventilators, and PPE; and

WHEREAS, the collection and dissemination of this information allows the State to best allocate medical resources, such as PPE, ventilators, respirators, and anesthesia machines, during this state of emergency and public health emergency; and

WHEREAS, the State has taken aggressive steps to expand the capacity of New Jersey's overall health care system, including the assembly of four Federal Medical Stations in three convention center locations around the State, in partnership with the Federal Emergency Management Agency ("FEMA"), the U.S. Army Corps of Engineers ("USACE"), the New Jersey State Police, and the New Jersey National Guard that will result in approximately 1,000 new hospital beds, as well as working with USACE to create additional capacity at hospitals on an accelerated timeline by augmenting existing space in order to address the increase in overall hospitalizations throughout the State; and

WHEREAS, the State has made and continues to make all reasonable efforts to procure medical resources from the federal Strategic National Stockpile, FEMA, existing State caches of supplies, individual and corporate donations, and through traditional private sector purchasing; and

WHEREAS, despite these efforts, there remains a critical shortage of medical resources in the State, particularly in hospitals, healthcare facilities, and emergency response agencies in the northern region of the State where the spread of COVID-19 is particularly acute and where there has been a particularly high volume of COVID-19 hospitalizations; and

WHEREAS, as of April 2, 2020, there were at least 25,590 positive cases of COVID-19 in New Jersey, with at least 537 of those cases having resulted in death; and

WHEREAS, the number of positive cases of COVID-19 and related hospitalizations is expected to continue to rise, establishing a continuing need to meet the demand for medical resources in hospitals, healthcare facilities, and emergency response agencies throughout the State, especially in those regions where the spread of COVID-19 is particularly acute and where there has been a particularly high volume of hospitalizations; and

WHEREAS, the New Jersey Civilian Defense and Disaster Control Act (the "Disaster Control Act") authorizes the Governor to "utilize and employ all the available resources of the State Government and of each and every political subdivision of this State" and to "commandeer and utilize any personal services and any privately owned property necessary to avoid or protect against any emergency" subject to the future repayment of such takings, N.J.S.A. App. A:9-34; and

WHEREAS, the Disaster Control Act empowers the Governor "to employ, take or use the personal services, or real or personal property, of any citizen or resident of this State, or of any firm, partnership or unincorporated association doing business or domiciled in this State, or of any corporation incorporated in or doing business in this State, or the real property of a nonresident located in this State, for the purpose of securing the defense of the State or of protecting or promoting the public health, safety or welfare," N.J.S.A. App. A:9-51(a)(3); and

WHEREAS, the reallocation of medical resources to the regions and health care facilities particularly affected by COVID-19 will protect and promote the public health, safety, and welfare of the State, including by reducing loss of life; and

WHEREAS, the Disaster Control Act also establishes emergency compensation boards in each county of the State, to be composed of three persons appointed by the Governor who shall serve at the will and pleasure of the Governor and without compensation, which will adjudicate any claims for just compensation whenever property is taken or used pursuant to the Disaster Control Act; 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. The State Director of Emergency Management, who is the Superintendent of State Police, is hereby authorized and empowered to exercise the full authority afforded to the Governor under the Disaster Control Act to take or use personal services and/or real or personal property, including medical resources, for the purpose of protecting or promoting the public health, safety, or welfare. The State Director of Emergency Management shall exercise this authority in consultation with the Commissioner of DOH.

2. Compensation shall be provided following the procedures established by the Disaster Control Act, N.J.S.A. App. A:9-51.

3. 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.

4. 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 my Executive Order, or which will or might in any way interfere with or impede its achievement, or the achievement of Administrative Orders issued as authorized by my Executive Order.

5. 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 DOH as appropriate.

GIVEN, under my hand and seal this 2nd 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