

**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

NATIONAL ASSOCIATION OF THEATRE OWNERS; NATIONAL ASSOCIATION OF THEATRE OWNERS OF NEW JERSEY; AMERICAN MULTI-CINEMA, INC.; CINEMARK USA, INC.; REGAL CINEMAS, INC.; BJK ENTERTAINMENT, INC.; BOW TIE CINEMAS, LLC; and COMMUNITY THEATERS LLC,

Plaintiffs,

- against -

PHILIP D. MURPHY, in his official capacity as Governor of New Jersey; and JUDITH PERSICILLI, in her official capacity as Acting Commissioner of Health,

Defendants.

x

Case No. 3:20-cv-08298-BRM-TJB

ECF Case

**DECLARATION OF JOHN FITHIAN  
IN SUPPORT OF PLAINTIFFS'  
REQUEST FOR A TEMPORARY  
RESTRAINING ORDER AND  
PRELIMINARY INJUNCTION**

x

I, JOHN FITHIAN, hereby declare as follows:

1. I am the President and Chief Executive Officer of the National Association of Theatre Owners ("NATO"), one of the Plaintiffs herein. I submit this Declaration in support of Plaintiffs National Association of Theatre Owners, National Association of Theatre Owners of New Jersey, American Multi-Cinemas, Inc., Cinemark USA, Inc., Regal Cinemas, Inc., BJK Entertainment, Inc., Bow Tie Cinemas, LLC, and Community Theaters LLC's application for a temporary restraining order and preliminary injunction. I have personal knowledge of the matters set forth herein. If called and sworn as a witness, I could and would competently testify to the facts set forth herein.

2. NATO is a non-profit organization that represents its voluntary members, who are movie theatre owners throughout the United States and abroad. NATO is the largest film exhibition trade organization in the world, representing over 35,000 movie screens in all fifty

States, the District of Columbia, and Puerto Rico, as well as additional cinemas in 98 countries worldwide. NATO's mission is to unite for the mutual benefit, protection, and improvement of the theatrical and entertainment industry, addressing issues such as new technologies, legislation, marketing, movie theft, and First Amendment issues.

3. NATO's members include owners of movie theatres in the State of New Jersey. Those members are subject to Governor Philip D. Murphy and Acting Commissioner of Health Judith Persichilli's orders discussed herein.

4. As President and Chief Executive Officer of NATO, my responsibilities include keeping abreast of laws and government regulations and orders affecting movie theatre operation. Since the advent of the COVID-19 outbreak that work has specifically included keeping advised as to laws and government regulations and orders affecting the closure and reopening of movie theatres in the States, the District of Columbia, and Puerto Rico.

5. My job responsibilities includes meeting and communicating with government officials throughout the country regarding procedures for the safe reopening of movie theatres following the COVID-19 outbreak.

6. NATO, and I, have devoted an enormous amount of time and effort to assisting its members with the challenges created by the COVID-19 outbreak. That has included gathering and creating information and resources for members regarding state and local reopening dates and requirements; reopening operations resources; and information regarding the CARES Act, the Paycheck Protection Program Flexibility Act, the SBA Paycheck Protection Program, and other governmental programs affecting movie theatre owners.

7. Part of NATO's work has been to intensively study the health and safety aspects of reopening movie theatres in a safe, healthy and responsible fashion. To that end, NATO has

created protocols and held webinars for the safe reopening of movie theatres. NATO has also worked with many states and localities, and their public health officers and departments, to create such guidelines for the safe and healthy reopening of movie theatres.

8. NATO's members include owners of movie theatres in the State of New Jersey. Defendants have issued a number of orders affecting movie theatres in New Jersey.

9. On March 16, 2020, Governor Murphy issued Executive Order No. 104, directing, among other things, New Jersey residents to stay at home except as to maintain continuity of operations for certain specified essential services. A true and correct copy of Executive Order No. 104 is attached hereto as Exhibit A<sup>1</sup>. Movie theatres were not deemed by the Governor to be an essential service. Movie theatres were in fact specifically mentioned in Executive Order No. 104. It recognized that movie theatres "are vital to the economic health of the State," but nonetheless ordered them closed. "The following facilities are ordered closed to members of the public, effective 8:00 p.m. on Monday, March 16, 2020. These facilities are to remain closed to the public for as long as this Order remains in effect.... d. Entertainment centers, including but not limited to, movie theaters..." As a result of Executive Order No. 104 and subsequent orders, all indoor movie theatres in the State of New Jersey have been ordered closed and remain closed.

10. On March 21, 2020, Governor Murphy issued Executive Order No. 107, directing, among other things, non-essential businesses (including movie theatres) to be closed. A true and correct copy of this Executive Order is attached hereto as Exhibit B. Once again, movie theatres were specifically mentioned in this order as being required to be closed. "9. All recreational and entertainment businesses, including but not limited to the following list, must close to the public

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<sup>1</sup> The Court may take judicial notice of the New Jersey Governor's orders attached hereto per Fed. R. Evid. 201(b)(2), (c)(2).

as long as this Order remains in effect.... d. Entertainment centers, including but not limited to, movie theatres...”

11. On May 18, 2020, Governor Murphy issued a reopening roadmap for the State. A true and correct copy of that document is attached hereto as Exhibit C. The roadmap describes a series of reopening “stages,” starting with what the Defendants deemed to be low-risk activities and advancing toward what the Defendants deem to be higher-risk activities. Movie theatres have been placed by Defendants in “Stage 3,” which includes “limited entertainment.” New Jersey is currently in “Stage 2” of the reopening roadmap. Guidance from the Governor’s office dated June 19, 2020 provides that “[i]ndoor entertainment businesses, such as movie theaters and arcades, will remain closed.” A true and correct copy of that Guidance is attached hereto as Exhibit D. Defendants have provided no timeline for the commencement of Stage 3 or for the reopening of movie theatres in the State.

12. On June 9, 2020, Governor Murphy issued Executive Order 152 which, among other things, recognized the decrease in the rate of reported new cases of COVID-19 in New Jersey, in the total number of individuals being admitted to hospitals for COVID-19, and the rate of reproduction for COVID-19 infections in New Jersey. As a result, the Executive Order lifted certain restrictions that had been imposed by prior orders. A true and correct copy of this Executive Order is attached hereto as Exhibit E. Restrictions on certain indoor gatherings were permitted, subject to specified limitations, while others (including movie theatres) were not. Alarming, the Defendants’ rationale for this differential treatment was explicitly based on the Defendants’ view of the content of the speech expressed at these gatherings. “[C]ertain gatherings – including religious services and political activity – are particularly important to the functioning of the State and of society, and while such gatherings must be limited to the same

degree as any other during periods of especially high community transmission, at a time during which COVID-19 cases, hospitalizations, and the rate of reproduction is lower, the restrictions on these gatherings can be relaxed to an even greater degree than for other gatherings ...” Thus, Defendants have made an explicit distinction between which indoor gatherings are allowed and those that are not (including movie theatres) based on the message being expressed – a religious or political message being allowed, while an artistic, cultural, social, historical message is not. The Executive Order also ignores the fact that movies often express a religious or political message.

13. On June 9, 2020, Governor Murphy issued Executive Order No. 153, which allowed certain recreational and entertainment business to reopen their outdoor spaces to the public. A true and correct copy of this Executive Order is attached hereto as Exhibit F. The earlier Executive Orders requiring indoor spaces to be closed to the public were reaffirmed to remain in effect.

14. On June 13, 2020, Governor Murphy issued Executive Order No. 154, which allowed “indoor personal care facilities” to reopen to the public. A true and correct copy of this Executive Order is attached hereto as Exhibit G. These include massage parlors, tattoo parlors, tanning salons, as well as electrology facilities, spas, barber shops, beauty salons, nail salons, and other facilities.

15. On June 18, 2020, Governor Murphy issued Executive Order No. 155, which allows degree-granting public and private institutions of higher education to resume in-person instruction for students for curricula that requires labs, technical, clinical, or hands-on instruction. A true and correct copy of this Executive Order is attached hereto as Exhibit H.

16. On June 22, 2020, Governor Murphy issued Executive Order No. 156, which allowed an increase in the allowable size of permitted indoor and outdoor gatherings. However, movie theatres were not allowed to reopen. A true and correct copy of this Executive Order is attached hereto as Exhibit I.

17. On June 26, 2020, Governor Murphy issued Executive Order No. 157, which allowed retail establishments and shopping malls, indoor dining in restaurants, casinos, certain indoor recreational facilities (not including movie theatres), and individualized instruction at gyms and fitness centers. A true and correct copy of this Executive Order is attached hereto as Exhibit J. Among the recreational facilities allowed to reopen were libraries, museums, aquariums, and public and private social clubs. Movie theatres were specifically not allowed to reopen. “[P]erformance-based locations such as movie theatres, performing arts centers, and other concert venues, must remain closed to the public at this time, because those businesses necessitate a large number of individuals congregating together concurrently in one indoor location for an unusually prolonged period of time, even more so than in other recreational and entertainment businesses where individuals do not inherently spend as prolonged an amount of time together in one single room or locations, and because there are an especially high number of available outdoor and virtual options for members of the public to view and listen to movies and other performances, whether live or otherwise...” Executive Order No. 157 specifically forbids movie theatres from reopening. “The following recreational and entertainment businesses ... may not open their indoor spaces to the public ...: ... b. Entertainment centers where performances are viewed or given, including movie theaters ...”

18. On June 29, 2020, Governor Murphy issued Executive Order No. 158, which paused the reopening of indoor dining in restaurants but allowed the other establishments

permitted to reopen under Executive Order No. 157 to proceed. A true and correct copy of this Executive Order is attached hereto as Exhibit K.

19. On July 2, 2020, Governor Murphy issued Executive Order No. 161, which increased the number of persons allowed at outdoor gatherings to 500, in light of the fact that the number of new COVID-19 cases in the State had remained steady for the preceding ten days. Religious and political gatherings were exempted from any limit on the number of people who may gather. A true and correct copy of this Executive Order is attached hereto as Exhibit L.

20. In summary, in contrast to Defendants' complete closure of movie theatres, Defendants have allowed other places of public assembly to reopen. Defendants have allowed places of worship, shopping malls and retail establishments, libraries, institutions of higher learning providing in-person instruction, and many others to reopen.

21. As a result of the Defendants' orders, movie theatres have been unable to exhibit, and the public in New Jersey has been unable to view in theatres, any films that were scheduled to be released since March 16, 2020. A partial list of movies that were scheduled to appear in movie theatres since March 16, 2020 includes Antebellum, Antlers, Artemis Fowl, The Artist's Wife, The Batman, Black Widow, Blue Story, Bull, Candyman, Charm City Kings, The Climb, Deerskin, Doctor Strange in the Multiverse of Madness, F9, The Flash, Free Guy, The Forever Purge, Good Trouble: John Lewis, Ghostbusters: Afterlife, Greyhound, In the Heights, Irresistible, The Lovebirds, The Matrix 4, Minions: Rise of Gru, Mission: Impossible 7, Mulan, My Spy, The New Mutants, No Time to Die, The Personal History of David Copperfield, Run, Scoob!, The Secret Garden, Spiral: From the Book of Saw, Soul, Tenet, Top Gun: Maverick, The Truth, Unhinged, The Woman in the Window, Wonder Woman 1984, Working Man. This



is only a partial list. The films listed include art, cultural, historical, and documentary films, as well as popular films.

22. The result of this nearly four months (and continuing) forced closure of movie theatres has been a total loss of revenue and profits for movie theatres in New Jersey. It has also resulted in large scale layoffs, furloughs, or reduced hours for the many employees of movie theatres throughout the State. This continuing forced closure is particularly difficult, as it has extended through the summer season. Summer is always a high point during the year for attendance at movies. The period of time between the first weekend in May through Labor Day traditionally can account for as much as 40 percent of the entire year's movie ticket sales.

23. As described above, Governor Murphy's June 26, 2020 Executive Order No. 157, ordered movie theatres to remain closed "because there are an especially high number of available outdoor and virtual options for members to the public to view and listen to movies..." However, the types of activities occurring in other places of assembly that have been allowed to reopen also may be done outdoors or virtually. For example, prayer can be done outdoors or virtually, while places of worship have been allowed to reopen; reading can be done outdoors or virtually, while libraries have been allowed to reopen; shopping can be done outdoors or virtually, while shopping malls have been allowed to reopen.

24. Furthermore, the Governor's ostensible justification is not factually correct. Given the closure of movie theatres in key markets such as New Jersey, many films have not been released virtually or have been delayed for theatrical release by distributors. It is true that streaming platforms such as Netflix or Amazon Prime exist, which allow subscribers to watch *some* movies, it is certainly untrue that the movies that were scheduled to be released in movie theatres since March 16, 2020 are available to be viewed "virtually." In fact, only a small



number of the movies that were scheduled to be released theatrically have instead been released “virtually.”

25. The Governor’s comment was that the speech and expression of movie theatre owners and those who make movies can be completely suppressed simply because those who can afford and have access to streaming services can watch *other* movies. That is equivalent to saying that the government could close all bookstores because the public can read *other* material online.

26. Furthermore, the Governor’s assertion that “there are an especially high number of available outdoor ... options for members to the public to view and listen to movies” is not correct, either. There is only one drive-in movie theatre in the State of New Jersey, the Delsea Drive-In in Vineland.

27. People attending religious services frequently stand, sit, and kneel, sing, read aloud, face each other, share prayer books, and touch each other. These activities are not allowed during movie theatre showings. Furthermore, worshippers tend to arrive and leave at the same time for religious events, whereas movie theatres stagger show times so as to avoid large crowds arriving and leaving at or near the same time. In addition, those attending religious services generally choose their own seats, whereas many movie theatres have seat reservation systems, which can be used to achieve social distancing between patrons.

28. Persons in libraries frequently stay for extended periods of time, in excess of the length of a typical movie. Patrons of libraries often stand and sit, sit directly facing other patrons, touch books and other shared objects, sit at desks used by other patrons, and use public computers. Libraries do not have assigned seating or seat reservation systems. A school or

public library often has many more people present than the seating capacity of a movie auditorium.

29. Customers in shopping malls and other retail establishments frequently stay for extended periods of time, in excess of the length of a typical movie. Patrons of shopping malls and retail establishments often stand and sit, try on clothing and shoes, eat, and touch objects that are touched by others. Shopping malls ordinarily have many more customers present at any given time than the seating capacity of movie theatre auditoriums.

30. Defendants have allowed massage parlors and tattoo parlors to reopen in New Jersey. The closeness and intensity of physical contact inherent in massage parlors and tattoo parlors is much greater than what occurs in movie theatres.

31. I was part of a group that met with representatives of the Governor's office to discuss proposed protocols for movie theatres in New Jersey to utilize for reopening. Prior to this meeting, we shared the proposed reopening protocols for movie theatres in New Jersey with the Governor's Deputy Chief of Staff. This was an extremely detailed and comprehensive set of protocols for movie theatres in the State of New Jersey to use in order to safely reopen. A true and correct set of those protocols, which were presented to the Governor's office, are attached hereto as Exhibit M. The proposed protocols meticulously address all aspects of movie theatre operations, including employees, patrons, ticket sales, concessions sales, seating, security, training, and other elements of health and safety. We also shared a summary of our legal arguments for equitable and fair treatment of movie theatres and houses of worship, and described our preference to work with the Governor's staff on a mutually agreeable reopening plan. On June 29, 2020, Esther Baruh and I of NATO, along with Robert Piechota of NATO NJ, Joseph Masher of Bow Tie Cinemas, and two legislative representatives of NATO met with two

members of the Governor's office on a telephone call. We described that we had sent the protocols and were prepared to reopen in a safe and healthy manner. We indicated that theatres and churches should be treated in an equivalent manner, and that the Governor had already allowed houses of worship to reopen. One of the Governor's staff asked about HVAC systems, and we responded. The Governor's staff asked no other questions about the plan and indicated to us that they did not expect to reopen movie theatres in the short term.

32. The protocols we proposed to the Governor's office for the safe and healthy reopening of movie theatres in New Jersey include the following comprehensive protocols:

As to Employees:

- Masks and gloves required for all employees;
- Each employee to sign a document or otherwise certify each day upon the beginning of the shift that the employee does not have any symptoms associated with COVID-19 and that the employee does not have a fever;
- Each employee will be monitored regularly during the period the theatre is open, and any employee that becomes sick will immediately be sent home;
- Employees will be required to maintain social distancing in the workplace;
- All public spaces, restrooms, and food preparation areas will be cleaned, sanitized, and disinfected, in accordance with state and municipal department of health guidelines, NATO reopening operations resources, CDC COVID-19 reopening guidance, FDA Food Safety During Emergencies guidance, and OSHA Publication 3990, Guidance on Preparing Workplaces for COVID-19;
- Relevant areas and surfaces will receive continual cleaning during the hours the theatre is open and after closing;

- Employee break times will be staggered, and staff will maintain social distancing during breaks;
- Any hiring will be conditioned on applicants signing a written certification that the potential employee has been symptom-free for 14 days prior to start date;
- Training will be provided to all employees on all COVID-19 policies prior to reopening and again when updates or changes are to be implemented;

As to Patrons:

- All patrons must wear masks;
- Seating patterns will be established to achieve social distancing;
- Ticketing, concessions, restroom, auditorium entrance, and other lines will maintain social distancing;
- Signs will be posted to indicate the social distancing and other safety rules;

As to Ticket Sales:

- Ticket sales will be limited to comply with any state guidance limiting the occupancy of any auditorium or theatre venue;
- Touchless purchasing technology will be employed to the extent possible;
- For theatres lacking touchless capability, tickets will be purchased at designated locations where the employee and the patron will not have any physical contact and will maintain proper social distance;
- Plexiglas partitions will be employed at all customer service areas;
- Lines will be marked with measured six-foot increments, to maintain proper social distancing, and patrons will be required to adhere to that spacing while waiting to conduct any transactions;

As to Concessions Sales:

- Queue lines will maintain physical distancing standards, patrons and employees will wear masks, and food service workers will wear gloves;
- Where possible, “apps” enabling pre-purchase of concessions will be employed and purchases will be delivered to patrons’ seats, thus avoiding queue lines;
- Plexiglas contact partitions will be employed at all concessions areas;
- Staff will maintain standards of sanitization at all self-service and courtesy areas and other contact points;

As to Seating:

- Seating patterns will be arranged to maintain social distancing between households on all sides;
- Reserved seating ticketing systems will be updated to require empty seats on either side of a household’s ticket purchase;
- If a theatre does not have a reserved seating policy, an usher or theatre manager will direct compliance with seating rules and monitor guests at routine intervals in order to maintain proper social distancing;
- Auditoriums will be cleaned between shows;

As to Security:

- Seating patterns will be arranged to maintain social distancing between households;
- Reserved seating ticketing systems will be updated, as described;
- Auditoriums will be cleaned between shows;

As to Training:

- All employees will be properly trained on safety and sanitizing procedures;

- Signs and placards will be placed in appropriate public areas reminding staff and patrons to adhere to safety policies, and proper markings on floors will be installed to assist in maintaining mandated physical distance levels;
- Signs will be posted outlining the policies and warning that, if not followed, the patron will be asked to leave the theatre;
- All safety policies will be posted on the theatre's website;

Other Health Precautions:

- Show times will be staggered to ensure capacity is controlled and sufficient time is allotted for entry and exit as well as cleaning the theatres;
- Additional hand sanitizer stations will be located throughout facilities;
- Facility HVAC system air exchangers will be calibrated to maximize replacement of indoor air with fresh air;
- Independent theatres with smaller lobby areas and other limited space and limited technology will make every effort to adhere to the guidelines outlined above; and
- Theatres and patrons will be required to follow all CDC Coronavirus Prevention Guidelines, New Jersey Department of Health requirements, and all social distancing requirements established by the Governor in the delivery of these services.

33. Movie theatre owners stand ready, willing, and able to implement these protocols.

Furthermore, the protocols we proposed are more comprehensive and demanding than those required by Defendants of other places of public assembly that Defendants have allowed to reopen. Nevertheless, Defendants have not permitted movie theatres in the State to reopen and have not indicated any date by which they would be allowed to reopen.

34. There is literally no comparison between these comprehensive proposed protocols for movie theatres versus the requirements the Defendants have imposed on places of worship, libraries, and shopping malls, as set forth in the Executive Orders discussed above and attached hereto.

35. Indoor religious gatherings simply have limits on the number of attendees, require face coverings if 11 people or more are in attendance, limits on physical contact for some attendees, demarcation of six feet for social distancing purposes, sanitizing of shared physical items under some circumstances, and provision for contactless options for pre-payment or donations when feasible

36. Libraries, museums, aquariums, etc. simply have limits on the number of patrons, provide that reservations, cancellations, and prepayments be made via electronic or telephone reservation systems, require a physical barrier between visitors and employees where feasible or otherwise provide for six feet of distance except when paying, limit rented equipment to use by one household at a time, demarcate six feet of spacing in common areas and lines, require hand washing, coughing/sneezing etiquette and proper tissue usage and disposal, provide hand sanitizer and wipes to employees and customers, limit occupancy of restrooms, require frequent sanitization of high-touch areas, limit person-to-person interactions, send home workers with symptoms of COVID-19, notify workers of any known exposure to COVID-19, clean and disinfect the worksite in accordance with CDC guidance, follow New Jersey Department of Health, CDC and OSHA guidelines, and require workers and customers to wear face coverings, except where “impracticable.”

37. Retail establishments and shopping malls simply have limits on the number of patrons, must reserve hours for access by high-risk individuals, require a physical barrier



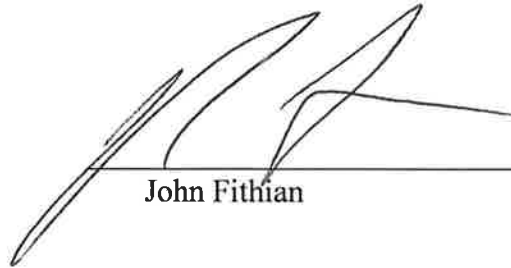
between visitors and employees where feasible or otherwise provide for six feet of distance except when paying, require hand washing, coughing/sneezing etiquette and proper tissue usage and disposal, provide break time for handwashing, arrange for contactless pay options where feasible, provide hand sanitizer and wipes to staff and customers, require frequent sanitization of high-touch areas, place signs reminding to keep six feet distance, demarcate six feet of distance in lines, and require workers and customers to wear cloth face coverings.

38. To date, most states have already allowed movie theatres to reopen, or will do so soon. At least thirty-five states plus Puerto Rico have already allowed movie theatres to reopen on a statewide basis. An additional eight states plus the District of Columbia have allowed movie theatres to reopen based on a county or regional basis or with approval from the health department. An additional state is allowing movie theatres to reopen by July 31, 2020. One state has created a plan to allow movie theatres to reopen but has not announced a date. That information, current as of the date of the meeting, was presented to the Governor's office during our meeting.

39. The federal Centers for Disease Control and Prevention issued a report regarding the public health aspects of reopening various businesses and establishments in light of the COVID-19 virus situation. A true and correct copy of this report is attached hereto as Exhibit N.

40. Johns Hopkins University Center for Health Security has issued a report advising Governors on how to manage health risks during the reopening of businesses and establishments, entitled *Public Health Principles for a Phased Reopening During COVID-19: Guidance for Governors*, a true and correct copy of which is attached as Exhibit O.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 13<sup>th</sup> day of July, 2020 at Washington, District of Columbia.



John Fithian

# **EXHIBIT A**

**EXECUTIVE ORDER NO. 104**

WHEREAS, through Executive Order No. 102, 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, in light of the dangers posed by COVID-19, I issued Executive Order No. 103 (2020) 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, 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, in accordance with N.J.S.A. App. A:9-40, I declared that, due to the State of Emergency, no municipality, county, or any 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 Orders, or which will in any way interfere with or impede their achievement; and

WHEREAS, on March 11, 2020, COVID-19 was declared to be a global pandemic by the World Health Organization; and

WHEREAS, on March 13, 2020, the President of the United States declared a national emergency pursuant to his constitutional and statutory powers, including those granted by Sections 201 and 301 of the National Emergencies Act (50 U.S.C. § 1601, *et seq.*) and consistent with Section 1135 of the Social Security Act, as amended (42 U.S.C. § 1320b-5); and

WHEREAS, the President of the United States also determined on March 13, 2020, that the COVID-19 pandemic was of sufficient severity and magnitude to warrant an emergency determination under Section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121-5207; and

WHEREAS, as of March 16, 2020, according to the Centers for Disease Control and Prevention ("CDC"), there were more than 130,000 confirmed cases of COVID-19 worldwide, with over 6,500 of those cases having resulted in death; and

WHEREAS, as of March 16, 2020, there were more than 4,900 confirmed cases of COVID-19 in the United States, with 67 of those cases having resulted in death; and

WHEREAS, as of March 16, 2020, there were 178 positive cases of COVID-19 in New Jersey, spread across numerous counties; and

WHEREAS, social mitigation strategies for combatting COVID-19 requires every effort to reduce the rate of community spread of the disease; and

WHEREAS, as of March 15, 2020, the CDC recommends that for the next eight weeks, gatherings of 50 or more people be canceled or postponed throughout the United States; and

WHEREAS, public and private preschool programs, elementary and secondary schools, and institutions of higher education are locations where significant numbers of students, educators, and support staff gather, often in close proximity in classrooms, hallways, cafeterias, and gymnasiums; and

WHEREAS, suspending in-person preschool programs, K-12 education, and in-person instruction at institutions of higher education are part of the State's mitigation strategy to combat COVID-19 and reduce the rate of community spread; and

WHEREAS, my Administration is committed to ensuring that all students will continue to have access to a quality education, in addition to school meals that are provided or subsidized for students from low-income families; and

WHEREAS, casinos, racetracks, gyms, fitness centers, movie theaters, performing arts centers, other concert venues, nightclubs, and other entertainment centers, which are vital to the economic health of the State, are also locations where large numbers of individuals gather in close proximity; and

WHEREAS, many individuals also come into contact with common surfaces at gyms, fitness centers, and other entertainment centers; and

WHEREAS, suspending operations at these businesses is part of the State's mitigation strategy to combat COVID-19 and reduce the rate of community spread; and

WHEREAS, even on casino floors, where slot machines or other casino games may be several feet apart, many individuals come into contact with common surfaces; and

WHEREAS, in contrast to gaming at brick-and-mortar facilities, online gaming provides a safe mode of entertainment during a time when physical proximity to other individuals can be dangerous; and

WHEREAS, the CDC has advised that COVID-19 spreads most frequently through person-to-person contact when individuals are within six feet or less of one another; and

WHEREAS, as a result, the CDC has recommended that individuals practice "social distancing" to prevent community spread of the virus; and

WHEREAS, the CDC has defined social distancing as the practice of "remaining out of congregate settings, avoiding mass gatherings, and maintaining distance (approximately 6 feet or 2 meters) from others when possible"; and

WHEREAS, bars and restaurants are locations where significant numbers of individuals gather in close proximity, making adherence to social distancing protocols impossible or impracticable; and

WHEREAS, to mitigate community spread of COVID-19, it is necessary to limit the unnecessary movement of individuals in and around their communities and person-to-person interactions in accordance with CDC and DOH guidance; and

WHEREAS, on March 15, 2020, the Director of the National Institute of Allergy and Infectious Diseases, Dr. Anthony Fauci, called for "a dramatic diminution of the personal interaction that we see in restaurants and in bars," and recommended pursuing "[w]hatever it takes to do that"; and

WHEREAS, the provision of take-out and delivery services do not pose the same danger of widespread person-to-person contact while still preserving necessary food delivery services for New Jersey residents; and

WHEREAS, narrowing scope of service or hours of operation for restaurants and certain retail establishments permits individuals to access food, clothing, and other essential materials while also limiting unnecessary person-to-person contact; and

WHEREAS, it is critical to ensure that law enforcement resources, particularly those that might otherwise be required to respond to late-night incidents, not be unnecessarily diverted from responding to COVID-19 related issues and maintaining public safety; 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 gatherings of persons in the State of New Jersey shall be limited to 50 persons or fewer, excluding normal operations at airports, bus and train stations, medical facilities, office environments, factories, assemblages for the purpose of industrial or manufacturing work, construction sites, mass transit, or the purchase of groceries or consumer goods.

2. All public, private, and parochial preschool program premises, and elementary and secondary schools, including charter and renaissance schools, shall be closed to students beginning on Wednesday, March 18, 2020, and shall remain closed as long as this Order remains in effect.

3. All institutions of higher education shall cease in-person instruction beginning on Wednesday, March 18, 2020, and shall cease such in-person instruction as long as this Order remains in effect. The Secretary of the Office of Higher Education shall have the authority to grant a waiver to allow in-person instruction to students on a case-by-case basis where a compelling rationale to allow such access exists. The Secretary of the Office of Higher Education shall coordinate with institutions of higher education to determine appropriate student housing conditions for those students who reside in on-campus housing as their primary residence.

4. The Commissioner of the Department of Education ("DOE"), in consultation with the Commissioner of DOH, shall be authorized to permit schools to remain open on a limited basis for the provision of food or other essential, non-educational services, or for educational or child care services if needed in emergency situations after consultation with the Commissioner of DOH. The Commissioner of DOE shall also have the authority to close any other career or

training facilities over which he has oversight, after consultation with the Commissioner of DOH.

5. The Commissioner of DOE shall continue working with each public school district, and private and parochial schools as appropriate, to ensure that students are able to continue their educations during this time period through appropriate home instruction. Local school districts, charter schools, and renaissance schools, in consultation with the Commissioner of DOE, shall have the authority and discretion to determine home instruction arrangements as appropriate on a case-by-case basis to ensure all students are provided with appropriate home instruction, taking into account all relevant constitutional and statutory obligations.

6. The Secretary of the Department of Agriculture, in conjunction with the Commissioner of DOE, shall take all necessary actions to ensure that all students eligible for free or reduced meals shall continue to receive the services or supports necessary to meet nutritional needs during closures.

7. The following facilities are ordered closed to members of the public, effective 8:00 p.m. on Monday, March 16, 2020. These facilities are to remain closed to the public for as long as this Order remains in effect. 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 this list:

- a. Casino gaming floors, including retail sports wagering lounges, and casino concert and entertainment venues. Online and mobile sports and casino gaming services may continue to be offered notwithstanding the closure of the physical facility.
- b. Racetracks, including stabling facilities and retail sports wagering lounges. Mobile sports wagering

services may continue to be offered notwithstanding the closure of the physical facility.

- c. Gyms and fitness centers and classes.
- d. Entertainment centers, including but not limited to, movie theaters, performing arts centers, other concert venues, and nightclubs.

8. Other non-essential retail, recreational, and entertainment businesses must cease daily operations from 8:00 p.m. until 5:00 a.m.. From 5:00 a.m. until 8:00 p.m., these businesses may remain open if they limit their occupancy to no more than 50 persons and adhere to social distancing guidelines. Examples of essential businesses excluded from this directive include: grocery/food stores, pharmacies, medical supply stores, gas stations, healthcare facilities and ancillary stores within healthcare facilities. 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 list of essential businesses and to the timelines applicable to operating hours.

9. 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, are permitted to operate their normal business hours, but are limited to offering only food delivery and/or take-out services. If alcoholic beverages are to be sold from a restaurant, dining establishment or bar with a liquor license, such sales shall be limited to original containers sold from the principal public barroom. All retail sales of alcoholic beverages by limited brewery licensees, restricted brewery licensees, plenary and farm winery licensees (and associated salesrooms), craft distillery licensees and cidery and meadery licensees must be in original containers and must be delivered by licensed entities and/or by customer pick up.

10. In accordance with N.J.S.A. App. A:9-33, et seq., as supplemented and amended, the State Director of Emergency Management, who is the Superintendent of State Police, through the police agencies under his control, to determine and control the direction of the flow of vehicular traffic on any State or interstate highway, municipal or county road, and any access road, including the right to detour, reroute, or divert any or all traffic and to prevent ingress or egress from any area that, in the State Director's discretion, is deemed necessary for the protection of the health, safety, and welfare of the public, and to remove parked or abandoned vehicles from such roadways as conditions warrant.

11. The Attorney General, pursuant to the provisions of N.J.S.A. 39:4-213, shall act through the Superintendent of State Police, to determine and control the direction of the flow of vehicular traffic on any State or interstate highway, municipal or county road, and any access road, including the right to detour, reroute, or divert any or all traffic, to prevent ingress or egress, and to determine the type of vehicle or vehicles to be operated on such roadways. I further authorize all law enforcement officers to enforce any such order of the Attorney General or Superintendent of State Police within their respective municipalities.

12. 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 Executive Order, or which will in any way interfere with or impede its achievement.

13. 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.

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

15. 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  
16<sup>th</sup> day of March,  
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

# **EXHIBIT B**

**EXECUTIVE ORDER NO. 107**

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, in light of the dangers posed by COVID-19, I issued Executive Order No. 103 (2020) 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, 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, in accordance with N.J.S.A. App. A:9-40, I declared that, due to the State of Emergency, no municipality, county, or any 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 Orders, or which will in any way interfere with or impede their achievement; and

WHEREAS, to further protect the health, safety, and welfare of New Jersey residents by, among other things, reducing the rate of community spread of COVID-19, I issued Executive Order No. 104 (2020) on March 16, 2020, the facts and circumstances of which are also adopted by reference herein, which established statewide social mitigation strategies for combatting COVID-19; and



WHEREAS, Executive Order No. 104 (2020) limited the scope of service and hours of operation for restaurants and certain retail establishments to balance the need to allow individuals to access food and other essential materials with the need to limit unnecessary person-to-person contact; and

WHEREAS, Executive Order No. 104 (2020) deemed a subset of businesses as "essential," including grocery/food stores, pharmacies, medical supply stores, gas stations, healthcare facilities, and ancillary stores within healthcare facilities, and it authorized the State Director of Emergency Management, who is the Superintendent of State Police, to make additions, amendments, clarifications, exceptions, and exclusions to that list; and

WHEREAS, Executive Order No. 104 (2020) made clear that such essential businesses may continue operating without limits on their scope of service or hours of operation, absent further amendments by the State Director of Emergency Management; and

WHEREAS, Executive Order No. 104 (2020) and subsequent Administrative Orders issued by the State Director of Emergency Management also placed restrictions on other businesses' scope of service and hours of operation, and also placed restrictions on the size of gatherings in the State; and

WHEREAS, as of March 20, 2020, according to the Centers for Disease Control and Prevention ("CDC"), there were more than 234,000 confirmed cases of COVID-19 worldwide, with over 9,800 of those cases having resulted in death; and

WHEREAS, as of March 20, 2020, there were more than 15,000 confirmed cases of COVID-19 in the United States, with at least 201 of those cases having resulted in death; and

WHEREAS, as of March 20, 2020, there were at least 890 positive cases of COVID-19 in New Jersey, with at least 11 of those cases having resulted in death; and

WHEREAS, social mitigation strategies for combatting COVID-19 require every effort to reduce the rate of community spread of the disease; and

WHEREAS, the CDC has advised that COVID-19 spreads most frequently through person-to-person contact when individuals are within six feet or less of one another; and

WHEREAS, as a result, the CDC has recommended that individuals practice "social distancing" to prevent community spread of the virus; and

WHEREAS, the CDC has defined social distancing as the practice of "remaining out of congregate settings, avoiding mass gatherings, and maintaining distance (approximately 6 feet or 2 meters) from others when possible"; and

WHEREAS, to mitigate community spread of COVID-19, it is necessary to limit the unnecessary movement of individuals in and around their communities and person-to-person interactions in accordance with CDC and DOH guidance; and

WHEREAS, the best way for New Jersey residents to keep themselves, their families, and their communities safe during the COVID-19 outbreak is to stay at home as much as possible; and

WHEREAS, as of March 15, 2020, the CDC recommends that for the next eight weeks, gatherings of 50 or more people be canceled or postponed throughout the United States; and

WHEREAS, as of March 16, 2020, the White House went further than the CDC had and recommended that Americans avoid social gatherings in groups of more than 10 people; and

WHEREAS, restricting the physical presence of individuals in office environments and work sites is critical to preventing future spread of COVID-19; and

WHEREAS, accommodating work-from-home arrangements is an effective means to ensure continuity of operations while also limiting person-to-person contact; and

WHEREAS, the CDC has recommended employers to establish policies and practices to increase the physical distance among employees and between employees; and

WHEREAS, permitting the workforce to work from home may reduce stress on the State's child care system; and

WHEREAS, as of March 19, 2020, I have instructed all State departments and agencies to utilize work-from-home arrangements for both essential and non-essential employees wherever feasible; and

WHEREAS, given the rapidly rising incidence of COVID-19, temporarily closing non-essential retail businesses will strengthen New Jersey's efforts to slow the spread of COVID-19; and

WHEREAS, even as we institute social distancing measures, the number of COVID-19 cases in New Jersey is likely to increase for the immediate future, meaning we must take all possible steps to preserve our health care system's capacity to treat those who require emergency or intensive care; 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 operative paragraphs of Executive Order No. 104 (2020) are hereby superseded in full. The factual findings of Executive Order No. 104 (2020) remain applicable except to the extent they are in conflict with the factual findings in this or any intervening Executive Order.

2. All New Jersey residents shall remain home or at their place of residence unless they are 1) obtaining goods or services from essential retail businesses, as described in Paragraph 6; 2) obtaining takeout food or beverages from restaurants, other dining establishments, or food courts, pursuant to Paragraph 8; 3) seeking medical attention, essential social services, or assistance from law enforcement or emergency services; 4) visiting family or other individuals with whom the resident has a close personal relationship, such as those for whom the individual is a caretaker or romantic partner; 5) reporting to, or performing, their job; 6) walking, running, operating a wheelchair, or engaging in outdoor activities with immediate family members, caretakers, household members, or romantic partners while following best social distancing practices with other individuals, including staying six feet apart; 7) leaving the home for an educational, religious, or political reason; 8) leaving because of a reasonable fear for his or her health or safety; or 9) leaving at the direction of law enforcement or other government agency.

3. When in public, individuals must practice social distancing and stay six feet apart whenever practicable, excluding immediate family members, caretakers, household members, or romantic partners.

4. Individuals who have to travel pursuant to Paragraph 2 should only use public transportation only if they have no other feasible choice. Individuals who ride public transportation should abide by best social distancing practices, including making

all efforts to stand or sit six feet away from other riders and frequently use sanitizing products.

5. Gatherings of individuals, such as parties, celebrations, or other social events, are cancelled, unless otherwise authorized by any part of this Order. The State Director of Emergency Management, who is the Superintendent of the State Police, shall have the discretion to make clarifications and issue orders related to this provision.

6. The brick-and-mortar premises of all non-essential retail businesses must close to the public as long as this Order remains in effect. Essential retail businesses, listed below, are excluded from this directive and may remain open during their normal business hours. Essential retail businesses must, wherever practicable, provide pickup services outside or adjacent to their stores for goods ordered in advance online or by phone. Additionally, online and telephonic delivery services are permitted to the extent the retail business is authorized to operate an online or telephonic delivery service under existing law. The State Director of Emergency Management, who is the Superintendent of the State Police, shall have the discretion to make additions, amendments, clarifications, exceptions, and exclusions to this list:

- a. Grocery stores, farmer's markets and farms that sell directly to customers, and other food stores, including retailers that offer a varied assortment of foods comparable to what exists at a grocery store;
- b. Pharmacies and alternative treatment centers that dispense medicinal marijuana;
- c. Medical supply stores;
- d. Retail functions of gas stations;

- e. Convenience stores;
- f. Ancillary stores within healthcare facilities;
- g. Hardware and home improvement stores;
- h. Retail functions of banks and other financial institutions;
- i. Retail functions of laundromats and dry-cleaning services;
- j. Stores that principally sell supplies for children under five years old;
- k. Pet stores;
- l. Liquor stores;
- m. Car dealerships, but only to provide auto maintenance and repair services, and auto mechanics;
- n. Retail functions of printing and office supply shops; and
- o. Retail functions of mail and delivery stores.

7. Any essential retail business whose brick-and-mortar premises remain open to the public shall abide by social distancing practices to the extent practicable while providing essential services. These include all reasonable efforts to keep customers six feet apart and frequent use of sanitizing products on common surfaces.

8. All restaurants, cafeterias, 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, are permitted to operate their normal business hours, but are limited to offering only food delivery and/or take-out services in accordance with their existing liquor licenses. If alcoholic beverages are to be sold from a restaurant, dining establishment or bar with a liquor license, such sales shall be

limited to original containers sold from the principal public barroom. The on-premises consumption of alcohol is prohibited. All retail sales of alcoholic beverages by limited brewery licensees, restricted brewery licensees, plenary and farm winery licensees (and associated salesrooms), craft distillery licensees and cidery and meadery licensees must be in original containers and must be sold through customer pick up and/or delivered by licensees in accordance with their existing licenses.

9. All recreational and entertainment businesses, including but not limited to the following list, must close to the public as long as this Order remains in effect. 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 this list:

- a. Casino gaming floors, including retail sports wagering lounges, and casino concert and entertainment venues. Online and mobile sports and casino gaming services may continue to be offered notwithstanding the closure of the physical facility.
- b. Racetracks, including stabling facilities and retail sports wagering lounges. Mobile sports wagering services may continue to be offered notwithstanding the closure of the physical facility.
- c. Gyms and fitness centers and classes.
- d. Entertainment centers, including but not limited to, movie theaters, performing arts centers, other concert venues, and nightclubs.
- e. All indoor portions of retail shopping malls. Restaurants and other stores located within



shopping malls that have their own external entrances open to the public, separate from the general mall entrance, may remain open pursuant to the terms and directives of this Order for operating hours and takeout or food delivery services. All entrances and exits to the common area portions of retail shopping malls must remain closed.

- f. All places of public amusement, whether indoors or outdoors, including but not limited to, locations with amusement parks, water parks, aquariums, zoos, arcades, fairs, children's play centers, funplexes, theme parks, bowling alleys, family and children's attractions.
- g. Facilities where personal care services are performed that, by their very nature, result in noncompliance with social distancing guidelines, including but not limited to cosmetology shops; barber shops; beauty salons; hair braiding shops; nail salons; electrology facilities; spas, including day spas and medical spas, at which solely elective and cosmetic medical procedures are performed; massage parlors, tanning salons, tattoo parlors, and public and private social clubs, whether or not they serve alcohol, including but not limited to facilities owned or operated by the American Legion, Veterans of Foreign Wars, Knights of Columbus, and any other social clubs associated with community service organizations. This excludes any health facilities that provide medically necessary or therapeutic services.

h. All municipal, county, and State public libraries, and all libraries and computer labs at public and private colleges and universities.

10. All businesses or non-profits in the State, whether closed or open to the public, must accommodate their workforce, wherever practicable, for telework or work-from-home arrangements. For purposes of this order, "telework" means the practice of working from home or alternative locations closer to home through the use of technology that equips the individual to access necessary materials.

11. To the extent a business or non-profit has employees that cannot perform their functions via telework or work-from-home arrangements, the business or non-profit should make best efforts to reduce staff on site to the minimal number necessary to ensure that essential operations can continue. Examples of employees who need to be physically present at their work site in order to perform their duties include, but are not limited to, law enforcement officers, fire fighters, and other first responders, cashiers or store clerks, construction workers, utility workers, repair workers, warehouse workers, lab researchers, information technology maintenance workers, janitorial and custodial staff, and certain administrative staff.

12. All public, private, and parochial preschool program premises, and elementary and secondary schools, including charter and renaissance schools, shall remain closed to students as long as this Order remains in effect.

13. All institutions of higher education shall continue to cease such in-person instruction as long as this Order remains in effect. The Secretary of the Office of Higher Education shall have the authority to grant a waiver to allow in-person instruction to students on a case-by-case basis where a compelling rationale to

allow such access exists. The Secretary of the Office of Higher Education shall coordinate with institutions of higher education to determine appropriate student housing conditions for those students who reside in on-campus housing as their primary residence.

14. The Commissioner of the Department of Education ("DOE"), in consultation with the Commissioner of DOH, shall be authorized to permit schools to remain open on a limited basis for the provision of food or other essential, non-educational services, or for educational or child care services if needed in emergency situations after consultation with the Commissioner of DOH. The Commissioner of DOE shall also have the authority to close any other career or training facilities over which he has oversight, after consultation with the Commissioner of DOH.

15. The Commissioner of DOE shall continue working with each public school district, and private and parochial schools as appropriate, to ensure that students are able to continue their educations during this time period through appropriate home instruction. Local school districts, charter schools, and renaissance schools, in consultation with the Commissioner of DOE, shall have the authority and discretion to determine home instruction arrangements as appropriate on a case-by-case basis to ensure all students are provided with appropriate home instruction, taking into account all relevant constitutional and statutory obligations.

16. The Secretary of the Department of Agriculture, in conjunction with the Commissioner of DOE, shall take all necessary actions to ensure that all students eligible for free or reduced meals shall continue to receive the services or supports necessary to meet nutritional needs during closures.

17. Nothing in this Order shall be construed to limit, prohibit, or restrict in any way the provision of health care or medical services to members of the public.

18. Nothing in this Order shall be construed to limit, prohibit, or restrict in any way access to essential services for low-income residents, including but not limited to food banks.

19. Nothing in this Order shall be construed to limit, prohibit, or restrict in any way the operations of newspapers, television, radio, and other media services.

20. Nothing in this Order shall be construed to limit, prohibit, or restrict in any way the operations of law enforcement agencies.

21. Nothing in this Order shall be construed to limit, prohibit, or restrict in any way the operations of the federal government, or the movement of federal officials in New Jersey while acting in their official capacity.

22. In accordance with N.J.S.A. App. A:9-33, et seq., as supplemented and amended, the State Director of Emergency Management, who is the Superintendent of State Police, through the police agencies under his control, to determine and control the direction of the flow of vehicular traffic on any State or interstate highway, municipal or county road, and any access road, including the right to detour, reroute, or divert any or all traffic and to prevent ingress or egress from any area that, in the State Director's discretion, is deemed necessary for the protection of the health, safety, and welfare of the public, and to remove parked or abandoned vehicles from such roadways as conditions warrant.

23. The Attorney General, pursuant to the provisions of N.J.S.A. 39:4-213, shall act through the Superintendent of State Police, to determine and control the direction of the flow of

vehicular traffic on any State or interstate highway, municipal or county road, and any access road, including the right to detour, reroute, or divert any or all traffic, to prevent ingress or egress, and to determine the type of vehicle or vehicles to be operated on such roadways. I further authorize all law enforcement officers to enforce any such order of the Attorney General or Superintendent of State Police within their respective municipalities.

24. 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.

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

26. This Order shall take effect on Saturday, March 21, 2020, at 9:00 p.m., 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  
21<sup>st</sup> day of March,  
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

# **EXHIBIT C**



# The Road Back:

## Restoring Economic Health Through Public Health

### Six Key Principles

Governor Phil Murphy announced his vision, “The Road Back: Restoring Economic Health Through Public Health,” to restart New Jersey and put the state on the road to recovery. Gov Murphy’s stay-at-home Executive Order, which has been in effect since March 21st, will remain in effect in its entirety until further notice. The following six principles and key metrics will guide the process for lifting restrictions and restoring New Jersey’s economic health through public health.



#### Principle 1: Demonstrate Sustained Reductions in New COVID-19 Cases and Hospitalizations

- 14-day trend lines showing appreciable and sustained drop in cases, hospitalizations, and other metrics;
- Hospitals stepping down from functioning under crisis standards of care.



#### Principle 2: Expand Testing Capacity

- At least double current diagnostic testing capacity;
- Prioritize testing for health care workers, essential personnel, and vulnerable populations;
- Create a flexible testing plan accessible to all residents;
- Expand partnerships with institutions of higher education, private-sector labs, and the federal government.
- Ensure that those who test positive are linked to a health care provider.



#### Principle 3: Implement Robust Contact Tracing

- Recruit and deploy an army of personnel who will identify and follow-up with contacts;
- Leverage technological data and innovative solutions to increase efficiency;
- Coordinate the approach of local and state health officials, which will have a coordinated county/regional component.



#### Principle 4: Secure Safe Places and Resources for Isolation and Quarantine

- To the greatest extent possible, provide individuals who do test positive in the future with a safe and free place to isolate and protect others from COVID-19;
- Ensure that quarantined contacts are provided supportive services, if needed.



#### Principle 5: Execute a Responsible Economic Restart

- Create the Governor’s Restart and Recovery Commission to advise on the process and recommend responsible and equitable decisions;
- Plan for a methodical and strategic return to work based on level of disease transmission risk and essential classification;
- Continuation of social distancing measures where feasible and appropriate;
- Leverage any available federal funds and programs to support health care, individual, and small business recoveries.



#### Principle 6: Ensure New Jersey’s Resiliency

- Learn from the lessons of COVID-19 and prepare for the possibility of a resurgence;
- Ensure hospitals, health care systems, and other health delivery facilities have inventories of personal protective equipment and ventilators;
- Build our own state personal protective equipment and ventilator stockpile;
- Create a playbook for future administrations for the next pandemic.

# **EXHIBIT D**





**NEW JERSEY  
COVID-19 Information Hub**

Call (General COVID-19 Questions): [2-1-1](#) (24/7)  
Call (Medical COVID-19 Questions): [1-800-962-1253](#) (24/7)  
Text NJCOVID to [898-211](#) to receive alerts

[Select a Language](#) ▼

**Search for COVID-19 and Reopening Information Here**

Have Motor



**GET TESTED**

**CHECK YOUR SYMPTOMS**

**WORK NJ**

**REOPENING INFORMATION**

[◀ Back to All FAQs](#)

**Can retail stores and malls reopen? What are the social distancing requirements at retail businesses for customers, employees, and business owners?**

*Last Updated: 07/02/2020*

[Copy Link to Article](#)

**Retail Stores**

Retail stores may open so long as they follow mitigation requirements described below.

Indoor portions of retail shopping malls can reopen on Monday, June 29 and businesses must adhere to the same requirements as other retail businesses. Mall-based restaurants will be able to offer take-out. Indoor entertainment businesses, such as movie theaters, will remain closed.

See below for customer and employee guidelines and mitigation requirements for retail

businesses.

## Customers

- If you are quarantined or in home isolation, do not leave your home. If you need essential goods or services while in isolation, [refer to this article](#).
- If you must leave home to access essential goods, please go at non-peak times. Retail food stores have been encouraged to maintain separate operating hours for senior citizens and other high-risk populations.
- You should wear a face covering whenever you leave your home and MUST wear one when shopping at essential retail businesses, entering a restaurant or bar to pick up takeout orders, or when traveling on public transportation. For more guidance on using face coverings, [refer to this article](#).
- Keep your visit as brief as possible, and go alone if possible.
- When shopping and standing in line, please keep six feet between yourself and other customers/staff.
- Please do not enter a retail facility if you have symptoms consistent with COVID19 (such as fever or a cough), have been diagnosed with COVID-19, or are undergoing a quarantine for potential exposure to COVID-19.

## Employees

- If you have symptoms consistent with COVID19 (such as fever or a cough), have been diagnosed with COVID-19, or are undergoing a quarantine for potential exposure to COVID-19, do not report to work.
- Must use a face covering. Your employer is required to provide materials for this purpose. For more guidance on using face coverings, [refer to this article](#).
- Under Executive Order 107, if your job can be performed from home, you should be performing it at home. Your employer should permit you to do so. If you believe your employer is violating Executive Order 107, please visit <https://covid19.nj.gov/violation>.
- Keep six feet of distance from customers and co-workers in the store.
- Please wash your hands with soap and water or alcohol based sanitizer frequently, and particularly after contact with shared public surfaces.

## Requirements For Retail Businesses

- Immediately separate and send home workers who appear to have COVID-19 symptoms;
- Promptly notify workers of any known exposure to COVID-19, subject to [confidentiality requirements in the Americans with Disabilities Act \(ADA\)](#);
- Clean and disinfect the worksite in accordance with [CDC guidelines](#) when a worker has been diagnosed with COVID-19;
- Continue to follow all guidelines and directives issued by the New Jersey Department of Health (NJDOH), the CDC, and the [Occupational Health and Safety Administration \(OSHA\)](#) for maintaining a clean, safe and healthy work environment.
- Businesses must provide face coverings and gloves to all employees, and employees are required to wear face coverings and gloves while on the premises.
- Limit occupancy to 50% of maximum store capacity at one time;
- Establish hours of operation specifically for the exclusive use of [high-risk individuals](#);
- Install a physical barrier, such as a shield guard, between customers and cashiers/baggers where possible and anywhere you cannot maintain 6 feet of distance;
- Require regular hand washing, coughing and sneezing etiquette, and proper tissue usage and disposal.

Can retail stores and malls reopen? What are the social distancing requirements at retail businesses for customers, employees, and busi... and disposal,

- Provide employees break time for regular hand washing;
- Arrange for contactless pay options, pickup, or delivery of goods wherever possible;
- Provide hand sanitizer and wipes to staff and customers;
- Frequently sanitize high-touch areas like restrooms, credit card machines, keypads, counters and shopping carts;
- Require infection control practices such as regular hand washing, coughing and sneezing etiquette, and proper tissue usage;
- Place conspicuous signage at entrances and throughout the store alerting staff and customers to the required 6 feet of distance;
- Demarcate 6 feet of spacing in check-out lines to demonstrate appropriate social distancing;
- Require workers and customers to wear cloth face coverings, and require workers to wear gloves. A business must provide, at its own expense, these face coverings and gloves for employees. Customers may be exempted if it would inhibit their health, or if under two years of age. If a customer refuses, they must be denied entry, unless the business is providing medication, medical supplies, or food, in which case another method of pickup should be provided.

For a full list of mitigation requirements, refer to section 1 on page 5 of [Executive Order No. 122](#).

## Indoor Shopping Malls

On Monday, June 29, the indoor portions of retail shopping malls may reopen so long as they follow the required social distancing and safety guidelines.

**Retail businesses** located in the interior of shopping malls are permitted to reopen to the public, as long as they comply with the requirements for retail businesses outlined above.

**Retail kiosks** located within malls may open and must also follow the same mitigation requirements for retail businesses and must also ensure customers remain six feet apart at all times.

**Restaurants** within the interior of a retail shopping mall may offer takeout and delivery services as well as in-person outdoor dining in areas outside of the mall, where feasible and in accordance with mitigation requirements for all restaurants.

**Valet parking, vending machines, stroller rentals, and communal play areas** shall be closed at all indoor shopping malls.

**Indoor entertainment and recreation businesses**, like movie theaters, gyms, and water parks, located within malls will remain closed as they do across the state. However, **arcades** may reopen at 25 percent capacity so long as they follow required social distancing and safety guidelines. For a full list of safety requirements, refer to sections 7 of page 13 of [Executive Order No. 157](#) and the Department of Health's [Executive Directive 20-023](#).

Additional requirements for malls include:

- All areas with communal seating shall be removed or cordoned off. Isolated seats or benches available for individual use may be accessible, in order to provide customers with a place to rest.
- Indoor shopping mall operators should evaluate floor plans and establish policies to minimize congestion points and maintain social distancing, such as a customer flow plan with floor markings or separate entrance and exit points.
- With respect to the mall's own employees, mall operators must require infection control practices, provide employees break time for handwashing, and provide sanitization materials, among other requirements.
- Employees and customers must wear 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. 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 mall at the point of entry, then the mall must decline entry to the individual.

For a full list of mitigation requirements, refer to [Administrative Order No. 2020-16](#).

Source: [Executive Order 107](#); [Executive Order 108](#); [Executive Order 122](#); [Executive Order 125](#); [Executive Orders 147](#); [Executive Order 150](#); [Quick Guidance for Retail Stores](#); [Executive Order No. 157](#); [Executive Directive 20-023](#)

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# **EXHIBIT E**

**EXECUTIVE ORDER NO. 152**

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, and 151, issued on April 7, 2020, May 6, 2020, and June 4, 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. 140-151 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, among these actions, and 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) to order steps to mitigate community spread of COVID-19; and

WHEREAS, to further limit community spread from person-to-person contact through use of social mitigation measures, Executive Order No. 107 (2020) required, with limited exceptions, New Jersey residents to remain in their place of residence, cancelled all gatherings, and closed all recreational and entertainment businesses; and

WHEREAS, given the decrease in the rate of reported new cases of COVID-19 in New Jersey, in the total number of individuals being admitted to hospitals for COVID-19, and in the rate of reproduction for COVID-19 infections in New Jersey, the State can and has taken 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 ("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 State is in the second phase of the reopening process and has begun to relax restrictions on activities where appropriately safeguarded, especially outdoor activities; and

WHEREAS, the CDC has issued guidance for mass gatherings or large community events, such as conferences, festivals, parades, concerts, sporting events, weddings, 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 decreases in a state, the state can significantly adjust its limits on indoor and outdoor gatherings; and

WHEREAS, the fact that the spread of COVID-19 has been limited by the State's emergency measures does not in any way suggest that gathering restrictions can be lifted altogether, because absent social distancing measures, public health experts anticipate that the spread of COVID-19 would again significantly increase; and

WHEREAS, the restrictions on indoor gatherings that remain in place may be more stringent than the restrictions that are in place for retail, because in indoor retail settings individuals neither congregate in large groups nor remain in close proximity for extended periods, which are factors that have been linked to the increased risk of COVID-19 transmission; and

WHEREAS, because public health experts have identified that outdoor environments present reduced risks of transmission as compared to indoor environments, it is appropriate to adjust the restrictions relative to gatherings that happen outdoors even more considerably, meaning that certain gatherings that could not take place indoors may still happen in open-air outdoor spaces, but participants should maintain reasonable restrictions to help limit the spread and prevent future outbreaks of COVID-19 and to protect the health, safety, and welfare of New Jersey residents; and

WHEREAS, maintaining overall social distancing and mitigation requirements while gathering in open-air outdoor spaces, particularly by maintaining a six-foot distance from other individuals, is imperative to continuing to reduce the ongoing risk of community spread of COVID-19; and

WHEREAS, recognizing both that the rate of community spread of COVID-19 has been decreasing and also that limits on gatherings have contributed to that progress, a number of other states in the region have relaxed their restrictions in indoor gatherings, and have relaxed their restrictions on outdoor gatherings even further, while still leaving a number of requirements in place; and

WHEREAS, certain gatherings - including religious services and political activity - are particularly important to the functioning of the State and of society, and while such gatherings must be limited to the same degree as any other during periods of especially high community transmission, at a time during which COVID-19 cases, hospitalizations, and the rate of reproduction is lower, the restrictions on these gatherings can be relaxed to an even greater degree than for other gatherings, especially if they

are outdoors, and other states facing analogous levels of COVID-19 transmission have repeatedly recognized these points; and

WHEREAS, the State's restrictions on gatherings continue to be tailored to the harms that each gathering presents, meaning that indoor in-person gatherings must comply with a more stringent limitation than outdoor in-person gatherings, and that additional individuals may participate in a gathering beyond those numerical limitations wherever those participants remain in their vehicle, given the relative risks of COVID-19 transmission presented by each scenario; and

WHEREAS, even where a gathering is permitted, the protective measures that individuals should take, including use of masks and social distancing, remains important, most especially for larger gatherings, because as the CDC has recognized, an increase in the number of participants will offer more opportunities for person-to-person contact, and will also present a higher risk of a super-spread event, especially when it takes place indoors; 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. No indoor gathering may take place in the State, whether on public or private property, unless it adheres to all of the following rules:

- a. The number of individuals at the gathering shall be limited to 25% 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 50 persons or smaller than 10 persons;
- b. All attendees at the gathering must wear face coverings at all times except where doing so would inhibit the individual's health or where the individual is under two years of age;
- c. If there are individuals organizing or maintaining the gathering, those individuals must wear face coverings whenever feasible, and must wear face coverings whenever they are within six feet of another individual, except where doing so would inhibit the individual's health;
- d. All attendees at the gathering are required to be six feet apart from other attendees at all times, excluding immediate family members, caretakers, household members, or romantic partners, as well as excluding a limited number of individuals organizing or maintaining the gathering;
- e. There may be no contact between attendees, excluding immediate family members, caretakers, household members, or romantic partners, and excluding a limited number of individuals organizing or maintaining the gathering;

- f. Where the number of individuals at the gathering is 10 persons or fewer, the gathering is not required to comply with Paragraphs 1(a)-(e) of this Order, but all individuals at the gathering should wear face coverings at all times, except where doing so would inhibit the individual's health or where the individual is under two years of age;
- g. If there are individuals organizing or maintaining the gathering, they should, where applicable, demarcate six feet of spacing in the area of the gathering to demonstrate appropriate spacing for social distancing, such as through the placement of cones, flags, or other markings;
- h. Any physical items, including equipment, may not be shared by multiple attendees of the same gathering except for immediate family members, caretakers, household members, or romantic partners, unless such physical items are sanitized before and after use by different individuals; and
- i. To the degree the gathering requires pre-payment, or seeks donations of any kind, contactless options for pre-payment or donation, such as online or by telephone, must be offered wherever feasible.

2. No outdoor gathering may take place in the State, whether on public or private property, unless it adheres to all of the following rules:

- a. The number of individuals at the gathering must be limited to 100 persons or fewer;
- b. All attendees at the gathering are required to be six feet apart from other attendees at all times, excluding immediate family members, caretakers, household members, or romantic partners, as well as excluding a limited number of individuals organizing or maintaining the gathering;
- c. There may be no contact between attendees, excluding immediate family members, caretakers, household members, or romantic partners, and excluding a limited number of individuals organizing or maintaining the gathering;
- d. If there are individuals organizing or maintaining the gathering, they should, where applicable, demarcate six feet of spacing in the area of the gathering to demonstrate appropriate spacing for social distancing, such as through the placement of cones, flags, or other markings;
- e. Any physical items, including equipment, may not be shared by multiple attendees of the same gathering except for immediate family members, caretakers, household members, or romantic partners, unless such physical items are sanitized before and after use by different individuals;
- f. Where the number of individuals at the gathering is 25 persons or fewer, the gathering is not required to comply with Paragraphs 2(a)-(e) of this Order. Where the outdoor gathering is a religious service

or political activity, such as a protest, the gathering is not required to comply with Paragraphs 2(a)-(e) of this Order;

- g. Open-air rain tarps, tents, and other outdoor structures shall be allowed solely for the purpose of protecting against foul weather or for shade;
- h. All individuals at the gathering should wear face coverings at all times where other social distancing measures are difficult to maintain, in accordance with CDC recommendations, except where doing so would inhibit the individual's health or where the individual is under two years of age, and all attendees must wear such face coverings where required by another Executive Order; and
- i. To the degree the gathering requires pre-payment, or seeks donations of any kind, contactless options for pre-payment or donation, such as online or by telephone, must be offered wherever feasible.

3. No individual shall be considered in calculating the total number of attendees at the outdoor gathering at any time in which that individual is in a vehicle, so long as that vehicle is either (1) closed, meaning that the windows, doors, sunroofs, and tops of the vehicle are all closed, or (2) more than six feet from any other vehicle or individual.

4. Nothing in this Order shall prevent an individual at a gathering from coming within six feet of another person, coming into contact with another person, going indoors, or leaving their vehicles, if done to protect their health or safety or the health or safety of another individual.

5. Nothing in this Order shall prevent a person at a gathering from momentarily removing their mask to place or receive an item in their mouth, including food or beverage, if done for religious purposes or for their health or safety.

6. Gatherings authorized by this Order are permitted at State Parks and Forests, county and municipal parks, public and private beaches, boardwalks, lakes, and lakeshores; however, consistent with Executive Order Nos. 108, 133, and 148 (2020), counties and municipalities may impose additional restrictions at county and municipal parks in response to COVID-19.

7. Available parking at all State Parks and Forests shall reopen to their full maximum capacity, and available parking at all county and municipal parks may reopen to their full maximum capacity.

8. The provisions in paragraph 5 of Executive Order No. 107 (2020), paragraphs 3 and 7 of Executive Order No. 133 (2020), paragraphs 4 and 8 of Executive Order No. 142 (2020), and paragraphs 1 and 5 of Executive Order No. 148 (2020) are hereby superseded to the extent inconsistent with this Order. To the extent provisions of these Orders are not inconsistent with this Order, they remain in full force and effect.

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 Executive 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 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  
9<sup>th</sup> day of June,  
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

# **EXHIBIT F**

**EXECUTIVE ORDER NO. 153**

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, and 151, issued on April 7, 2020, May 6, 2020, and June 4, 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. 140-152 (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) required, with limited exceptions, New Jersey residents to remain in their place of residence and closed all recreational and entertainment businesses; 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 can 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 ("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 State is implementing its reopening process and has begun to relax restrictions on certain businesses, including the authorization of curbside pickup at retail establishments, the resumption of non-essential construction, and the allowance of a number of lower-risk outdoor activities; and

WHEREAS, consistent with this Plan, I have issued a number of Executive Orders, including Executive Order Nos. 133, 142, 143, 146 and 147 (2020), which lifted closures and/or prohibitions of parks, beaches, lakefronts, and several outdoor recreational

facilities and activities, with social distancing, cleaning, sanitizing, and hygiene practices in place, given repeated observations from public health experts, including but not limited to the Centers for Disease Control and Prevention ("CDC"), that outdoor environments present reduced risks of COVID-19 transmission as compared to indoor environments; and

WHEREAS, consistent with this Plan, I issued Executive Orders No. 148 and 152 (2020), which allowed additional numbers of individuals to gather outdoors, consistent with the same repeated observations from public health experts, Executive Order No. 149 (2020), which authorized the gradual restart of ordinary child care services, certain youth sporting activities, and summer camps, with social distancing requirements, and 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, as more outdoor activities can happen safely, and as additional businesses can begin to open to the public under the Plan, especially outdoors, it is appropriate to lift the Order requiring New Jersey residents to remain home or at their place of residence; and

WHEREAS, consistent with this Plan, most outdoor activities, including those that take place in outdoor spaces owned or operated by recreation businesses, can begin to open to the public consistent with the State's framework on outdoor recreation and the relative risks of COVID-19 transmission provided that certain social distancing measures are followed, but recreation businesses still cannot allow the public into the indoor spaces for activity because such indoor environments continue to pose a higher risk of COVID-19 transmission at this time; and

WHEREAS, a limited number of outdoor spaces owned or operated by recreation businesses, including amusement parks and arcades, cannot be open to the public at this time because they include many high touch areas that make social distancing guidelines and capacity limits difficult to implement, maintain, monitor, and enforce; and

WHEREAS, indoor recreation also entails a higher risk than indoor retail settings, as indoor recreation typically involves individuals congregating together in one location for a prolonged period of time, while in indoor retail settings, individuals neither congregate in large groups nor remain in close proximity for extended periods and so the risk of COVID-19 spread is reduced; and

WHEREAS, the CDC has issued guidance regarding social distancing, cleaning, sanitizing, and hygiene practices necessary for the safe operation of public pools and hot tubs; and

WHEREAS, pursuant to N.J.A.C. 8:26-1.3 swimming pool facilities include conventional pools, hot tubs, spas, wading pools, special purpose pools, and aquatic recreation attractions that include, but are not limited to, "pools operated by or serving campgrounds, clubs, churches, cities, common interest communities, counties, day care centers, group home facilities for six or more clients, health spas, institutions, parks, private lake, river, or bay associations, or private community lake, river, or bay associations, State, county, and municipal agencies, retirement communities, schools, specially exempt facilities, subdivisions, or cooperative living type projects of three or more living units, such as apartments, boarding homes, condominiums, hotels, mobile home parks, motels, recreational vehicle parks, townhouses, trailer parks, and youth camps"; and

WHEREAS, consistent with this Plan, most outdoor swimming pools can begin to open provided such facilities implement measures that ensure critical health standards are met, which will be issued by DOH prior to opening, but consistent with the fact that indoor environments continue to pose a higher risk of COVID-19 transmission, indoor pools cannot open at this time; and

WHEREAS, pursuant to N.J.A.C. 8:26-1.3, aquatic recreation facilities include interactive play attractions, water parks, spray parks, and water amusement rides regulated by the Department of Community Affairs at N.J.A.C. 5:14A-12; and

WHEREAS, aquatic recreation facilities cannot be open to the public at this time due to the significant high touch areas at these facilities where many different individuals are coming into contact with those areas in rapid succession; 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. Effective at 6:00 a.m. on Monday, June 22, 2020, outdoor swimming pools are permitted to open, provided that the pool facility complies with all standards issued by the DOH pursuant to Paragraph 2 of this Order.

2. The Commissioner of the DOH is directed, pursuant to her authority under the Emergency Health Powers Act, N.J.S.A. 26:13-1 et seq., to issue health and safety standards for use by pool facilities in order to be open consistent with this Order. Any pool facility that opens must satisfy all standards issued by DOH pursuant to this Paragraph.

3. Pool facilities may open for the purpose of lifeguard training and swimming lessons prior to Monday, June 22, 2020, consistent with paragraph 10 of Executive Order No. 107 (2020).

4. All recreational and entertainment businesses that were closed to the public by paragraph 9 of Executive Order No. 107 (2020) are permitted to reopen their outdoor spaces to the public, unless otherwise prohibited by this Order, provided that such businesses adopt policies that include, at minimum, the following requirements:

- a. The public is permitted only in such outdoor spaces, except that members of the public may enter the indoor premises of the recreation business when entering or exiting the establishment in order to access the outdoor area, or to use the restroom;
- b. Limit total capacity to a number that ensures that all individuals can remain six feet apart;
- c. Open-air rain tarps, tents, and other outdoor structures shall be allowed solely for the purpose of protecting against foul weather or for shade;
- d. Require that reservations, cancellations and pre-payments be made via electronic or telephone reservation systems to limit physical interactions. Such policies shall, wherever possible, consider



populations that do not have access to internet service or credit cards;

- e. Install a physical barrier, such as a shield guard, between visitors and employees wherever feasible or otherwise ensure six feet of distance between those individuals, except at the moment of payment;
- f. Limit the use of equipment rented or otherwise provided by the business to one person at a time, excluding immediate family members, caretakers, household members, or romantic partners, and sanitize such equipment before and after use;
- g. Demarcate and post signs that denote six feet of spacing in all commonly used and other applicable areas or where people may form a line;
- h. Require infection control practices, such as regular hand washing, coughing and sneezing etiquette, and proper tissue usage and disposal;
- i. Provide employees break time for repeated handwashing throughout the workday;
- j. Provide sanitization materials, such as hand sanitizer and sanitizing wipes, to staff and customers;
- k. Limit occupancy in restrooms that remain open to avoid over-crowding and maintain social distancing through signage and, where practicable, the utilization of attendants to monitor capacity;
- l. Require frequent sanitization of high-touch areas including, at minimum, the following cleaning protocols:

- i. Routinely clean and disinfect all high-touch areas in accordance with DOH and CDC guidelines, particularly in spaces that are accessible to staff, customers, or members, or other individuals, including, but not limited to, restroom and locker facilities, counter tops, hand rails, door knobs, other common surfaces, safety equipment, and other frequently touched surfaces including employee used equipment, and ensure cleaning procedures following a known or potential exposure in compliance with CDC recommendations;
- ii. Clean and disinfect equipment that is rented in accordance with CDC and DOH guidelines; and
- iii. Train and equip employees to perform the above protocols effectively and in a manner that promotes the safety of the visitors and staff;
- m. Place additional restrictions on areas of the business, as necessary, to limit person-to-person interactions and facilitate appropriate social distancing;
- n. 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;
- o. 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;

- p. Clean and disinfect the worksite in accordance with CDC guidelines when a worker at the site has been diagnosed with COVID-19 illness; and
- q. 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. Any type of event at an outdoor recreational and entertainment business that involves individuals who are there at a specific time and for a common reason, such as a movie, a concert, a sporting event, or a trip on a chartered vessel, shall remain subject to the restrictions on outdoor gatherings in Executive Order No. 152 (2020).

6. Any recreational and entertainment businesses that were already permitted to reopen their outdoor spaces to the public, including outdoor archery ranges, batting cages, golf courses, golf driving ranges, shooting ranges, tennis clubs, and chartered vessels, may continue to keep their outdoor spaces open to the public, provided that they comply with all applicable terms of this Order.

7. Public and private social clubs are permitted to reopen their outdoor spaces, provided that they comply with all applicable terms of this Order.

8. The following shall remain closed to the public at pool facilities and all recreational businesses:

- a. Aquatic recreation facilities;
- b. Indoor recreational areas;
- c. Playgrounds; and

d. Water fountains (those considered recreational, not those for drinking).

9. All restaurants, cafeterias, dining establishments, and food courts, with or without a liquor license, all bars, all private and public social clubs, and all other holders of a liquor license with retail consumption privileges located at pool facilities and recreational businesses, including concessions, snack bars, and food trucks, shall comply with the requirements set forth in Executive Order No. 150 (2020).

10. Notwithstanding paragraph 4 of this Order, amusement parks and arcades that are recreational businesses or located at pool facilities shall remain closed pursuant to Executive Order No. 107 (2020), even if they are outdoors. Nothing in this Order prevents a business from operating an amusement game outdoors, such as a game on a boardwalk, so long as the game does not take place in an amusement park and an employee is present and adheres to all of the requirements in paragraph 1 of this Order, including sanitizing all equipment before and after each use.

11. Paragraph 2 of Executive Order No. 107 (2020), which requires New Jersey residents to remain home or at their place of residence with limited exceptions, is hereby rescinded. Paragraph 5 of Executive Order No. 142 (2020) and paragraph 5 of Executive Order No. 146 (2020) are also rescinded.

12. Total capacity at State Parks and Forests, as well as county and municipal parks, shall be limited to a number that ensures that all individuals can remain six feet apart.

13. Nothing in this Order shall replace, limit, or otherwise modify, existing sanitation and safety regulatory requirements for recreational bathing facilities to preserve public health set

forth in the New Jersey State Sanitary Code regulations, N.J.A.C. 8:26, adopted pursuant to N.J.S.A. 26:1A-7 and N.J.S.A. 26:4A-7.

14. The provisions in paragraph 9 of Executive Order No. 107 (2020), paragraphs 8 and 9 of Executive Order No. 133 (2020), paragraphs 2-3 of Executive Order No. 143 (2020), paragraph 1 of Executive Order No. 146 (2020), paragraphs 2, 5, 6, 8, and 10 of Executive Order No. 147 (2020), and paragraphs 2 and 4 of Executive Order No. 148 (2020) are hereby superseded to the extent inconsistent with this Order. To the extent provisions of these Orders are not inconsistent with this Order, they remain in full force and effect.

15. 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.

16. 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, and to cooperate fully with Administrative Orders issued pursuant to this Executive Order.

17. 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.

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

19. 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  
9<sup>th</sup> day of June,  
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

# EXHIBIT G

**EXECUTIVE ORDER NO. 154**

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, and 151, issued on April 7, 2020, May 6, 2020, and June 4, 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. 140-153 (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 facilities where personal



care services are performed that, by their very nature, result in noncompliance with social distancing guidelines; and

WHEREAS, on April 27, 2020, Colonel Patrick J. Callahan, State Director of Emergency Management, issued Administrative Order No. 2020-10 clarifying that the closure of personal care services facilities pursuant to Executive Order No. 107 (2020) extended to providing personal care services in any home or business setting, with limited exceptions; 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 can 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 ("DOH"), I announced a multi-stage New Jersey's Road Back Plan ("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, as the State moves forward with its reopening plans, it is reasonable to take an approach based on which industries can safely proceed while minimizing the spread of COVID-19, due to the challenges associated with assessing the circumstances of every individual business; and

WHEREAS, the State is implementing its reopening process and has begun to relax restrictions on certain businesses, including the authorization of curbside pickup at retail establishments, the resumption of non-essential construction, and the allowance of a number of lower-risk outdoor activities; and

WHEREAS, consistent with this Plan, I have issued a number of Executive Orders, including Executive Order Nos. 133, 142, 143, 146, 147, and 153 (2020), which lifted closures and/or prohibitions of parks, beaches, lakefronts, and most outdoor recreational facilities and activities, with social distancing, cleaning, sanitizing, and hygiene practices in place, given repeated observations from public health experts, including but not limited to the Centers for Disease Control and Prevention (CDC), that outdoor environments present reduced risks of COVID-19 transmission as compared to indoor environments; and

WHEREAS, consistent with this Plan, I issued Executive Orders No. 148 and 152 (2020), which allowed additional numbers of individuals to gather indoors and outdoors, consistent with the same repeated observations from public health experts, Executive Order No. 149 (2020), which authorized the gradual restart of ordinary child care services, certain youth sporting activities, and summer camps, with social distancing requirements, and 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, consistent with this Plan, facilities where personal care services are performed can begin to open to the public, but should be held to stringent social distancing and cleaning and

disinfectant requirements to continue preventing the spread of the virus; and

WHEREAS, it is appropriate to allow indoor personal care service facilities but still require other indoor activities to remain closed because unlike other indoor activities, personal care services 1) typically do not have an outdoor alternative, 2) can be conducted with limited and controlled interactions, as opposed to in an uncontrolled environment, and 3) can be conducted with both staff and clients wearing masks at nearly all times, unlike activities such as indoor dining; and

WHEREAS, while it is appropriate to allow indoor personal care service facilities to reopen, personal care services offered outside a personal care facility or a health facility providing medically necessary or therapeutic services should remain prohibited due to the increased difficulty of complying with the health and standards in non-facility settings where the personal care service provider is likely to have less control over cleaning and disinfection procedures, but reasonable accommodations are appropriate for clients confined to their home and unable to travel due to a disability; and

WHEREAS, students at cosmetology schools and other places that provide instruction and training to individuals who are not yet licensed are less likely than licensed professionals to be able to adhere strictly to health and safety standards; 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. Effective at 6:00 a.m. on Monday, June 22, 2020, cosmetology shops; barber shops; beauty salons; hair braiding shops; nail salons; electrology facilities; spas, including day spas and medical spas, at which solely elective and cosmetic medical procedures are performed; massage parlors, tanning salons, and tattoo parlors, collectively referred to as "personal care service facilities," are permitted to reopen to the public provided that the facility complies with standards issued by the Division of Consumer Affairs and DOH, as applicable, pursuant to paragraphs 2 and 3 of this Order.

2. The Director of the Division of Consumer Affairs (the "Director") within the Department of Law and Public Safety is directed, consistent with his authority under P.L.2020 c.18, to issue health and safety standards in connection with personal care services to be provided by licensees of the New Jersey State Board of Cosmetology and Hairstyling and the New Jersey Board of Massage and Bodywork Therapy to clients, consistent with this Order, in cosmetology shops; barber shops; beauty salons; hair braiding shops; nail salons; spas, including day spas and medical spas and similar facilities that offer services of skin care specialists, at which solely elective and cosmetic medical procedures are performed; and massage establishments. The Director may, consistent with his authority under P.L.2020 c.18, issue health

and safety standards for use in connection with personal care services provided by electrologists licensed by the Board of Medical Examiners. Unless and until the Director issues standards specific to electrologists or electrologist facilities, electrologists and electrologist facilities shall comply with any Administrative Order issued by the Director regarding healthcare services in office practices, including but not limited to the Division of Consumer Affairs Administrative Order No. 2020-07 (May 18, 2020).

3. The Commissioner of the DOH is directed, consistent with her authority under the Emergency Health Powers Act, to issue health and safety standards for use by tattoo parlors, tanning salons and other locations in which personal care services are offered by individuals not acting within the scope of a license issued by a professional board within the Division of Consumer Affairs, in order to serve patrons consistent with this Order.

4. Notwithstanding paragraph 1 of this Order, personal care services offered outside of personal care service facilities or health facilities providing medically necessary or therapeutic services shall remain prohibited pursuant to Administrative Order No. 2020-10, until explicitly authorized by an order from the State Director of Emergency Management. If such an order is issued by the State Director of Emergency Management, these personal care services must be provided in a manner that complies with standards issued by the Division of Consumer Affairs and DOH, as applicable, pursuant to paragraphs 2 and 3 of this Order. The prohibition of personal care services offered outside of the facilities referenced above shall not prevent the provision of services to a person that is confined to their home and unable to travel due to

a disability, if these services 1) are permitted under existing statutes and regulations and 2) are provided in a manner that substantially complies with standards issued by the Division of Consumer Affairs and DOH, as applicable, pursuant to paragraphs 2 and 3 of this Order.

5. Nothing in paragraph 4 shall be construed to preclude an individual from providing personal care services in a shop, office, or other premises licensed, or otherwise authorized by the Division of Consumer Affairs or one of its licensing boards or the Department of Health that is located in a residence, provided they comply with standards issued by the Division of Consumer Affairs and DOH, as applicable, pursuant to paragraphs 2 and 3 of this Order and all other applicable laws and regulations.

6. Notwithstanding paragraph 1 of this Order, cosmetology schools or other places that provide instruction and training for personal care services shall remain closed pursuant to paragraph 13 of Executive Order No. 107 (2020).

7. Paragraph 9 of Executive Order No. 107 (2020) is hereby superseded to the extent inconsistent with this Order, effective at 6:00 a.m. on Monday, June 22, 2020.

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 Executive Order, and to cooperate fully with Administrative Orders issued pursuant to this Executive 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 DOH as appropriate.

GIVEN, under my hand and seal this  
13<sup>th</sup> day of June,  
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

# EXHIBIT H



**EXECUTIVE ORDER NO. 155**

WHEREAS, in light of the dangers posed by 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, and 151, issued on April 7, 2020, May 6, 2020, and June 4, 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. 140-154 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, to protect the health, safety, and welfare of New Jersey residents by, among other things, reducing the rate of community spread of COVID-19, I issued Executive Order No. 104 on

March 16, 2020, the facts and circumstances of which are also adopted by reference herein, which established statewide social mitigation strategies for combatting COVID-19, including the cessation of in-person instruction at all institutions of higher education; and

WHEREAS, Executive Order No. 104 (2020) also gave the Secretary of Higher Education (the "Secretary") the authority to grant a waiver to allow in-person instruction to students on a case-by-case basis where a compelling rationale to allow such instruction exists; and

WHEREAS, on March 20, 2020, Colonel Patrick J. Callahan, State Director of Emergency Management, issued Administrative Order No. 2020-3 clarifying that the facilities closed to members of the public pursuant to Executive Order No. 104 (2020) included all libraries and computer labs at public and private colleges and universities; and

WHEREAS, to further limit community spread from person-to-person contact through use of social mitigation measures, Executive Order No. 107 (2020) required institutions of higher education to continue to cease in-person instruction and continued the authority of the Secretary to grant waivers to allow in-person instruction to students on a case-by-case basis where a compelling rationale to allow such instruction exists; 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 can 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 the multi-stage New Jersey's Road Back Plan ("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, as the State moves forward with its reopening plans, it is reasonable to take an approach based on which industries can safely proceed while minimizing the spread of COVID-19, due to the challenges associated with assessing the circumstances of every individual entity; and

WHEREAS, consistent with this Plan, I issued Executive Orders No. 148 and 152 (2020), which allowed additional numbers of individuals to gather indoors and outdoors, consistent with the same repeated observations from public health experts, Executive Order No. 149 (2020), which authorized the gradual restart of ordinary child care services, certain youth sporting activities, and summer camps, including school district-operated summer educational programming, with social distancing requirements, and 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 Executive Order No. 154 (2020), which allowed personal care service facilities to open in accordance with certain health and safety standards; and

WHEREAS, on June 13, 2020, Colonel Patrick J. Callahan, State Director of Emergency Management, issued Administrative Order No. 2020-15 permitting all libraries at public and private colleges and universities to reopen to the public for curbside pickup and drop-off, subject to specific health and safety requirements; and

WHEREAS, it is appropriate to allow institutions of higher education to begin preparing their facilities, staff, and students for the 2020-2021 academic year, as substantial preparation is required to address rooming and boarding, course offerings, and additional considerations unique to higher education settings; and

WHEREAS, it is appropriate to allow private trade schools, career schools, and other post-secondary places that offer or maintain a course of instruction or instructional program utilized to prepare individuals for future education or the workplace, to resume instruction as such programs are generally unable to provide instruction remotely and can proceed with in-person instruction while adhering to necessary health and safety standards; 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. Effective July 1, 2020, degree-granting public and private institutions of higher education ("IHE") may resume in-person instruction of students for curricula that require labs, technical, clinical, or hands-on instruction and therefore cannot be readily taught other than through in-person instruction, subject to the requirements in Paragraph 4 of this Order and all applicable Executive Orders.

2. The Secretary, in consultation with the Commissioner of Health, shall issue health and safety standards for the resumption of in-person instruction and on-campus operations, including housing and dining services, at IHEs ("Restart Standards for all New Jersey Institutions of Higher Education"). These standards are applicable to all degree-granting IHEs that are authorized to resume in-person instruction.

3. In the event that a program operated by an IHE is subject to authorization, accreditation, licensure, approval, or similar requirements by one or more State agencies, in addition to the Secretary, such as the Department of Labor and Workforce Development, the Department of Education, or the Division of Consumer Affairs within the Department of Law and Public Safety, the program must adhere to any health and safety standards issued by such agency or agencies.

4. IHEs that are authorized to resume in-person instruction pursuant to Paragraph 1 of this Order and intend to resume instructional in-person activity on campus must submit a restart plan to the Secretary in accordance with the Restart Standards for all New Jersey Institutions of Higher Education no later than 14 days prior to the expected date of implementation of the plan. Such plans must include, at minimum, the development and

implementation of policies and procedures that provide for the following:

- a. Training for students regarding COVID-19 sanitization and social distancing practices and protocols as a condition of resuming in-person classes;
- b. Training for faculty and staff on appropriate sanitization and social distancing practices and protocols, as well as institutional policies and procedures developed to limit the spread of COVID-19;
- c. Use of face coverings for faculty, staff, students, and visitors, except when doing so would inhibit the individual's health;
- d. Frequent cleaning and sanitization of classrooms, residences, restrooms, high-touch areas and equipment and shared surfaces;
- e. Maintenance of adequate supplies, such as personal protective equipment and cleaning supplies;
- f. Continued remote instruction for faculty and/or students who are unable to participate in in-person instruction;
- g. Social distancing in classrooms, residence halls, restrooms, and other areas across campus;
- h. Limitations on the number of students who may return to residence halls and restricted access to residential common areas;

- i. Designation of space(s) for separation of individuals residing on campus who display symptoms consistent with or have a positive diagnosis of COVID-19;
- j. A plan for on-campus transportation, which should include protocols for transporting sick students residing on campus to essential appointments as needed;
- k. A plan for the operation of research labs, if applicable;
- l. A plan for the operation of computer labs;
- m. Strategies for food service and dining operations to ensure compliance with all health and safety standards and applicable Executive Orders;
- n. A plan for intended resumption of athletics programs, if applicable;
- o. A plan for the operation of student services;
- p. Strategy for study abroad programs and international travel, if applicable;
- q. Performance of health screenings for faculty, staff, students and visitors, and education regarding self-monitoring for symptoms;
- r. Commitment to working with local and State officials, including the local health department and local office of emergency management, to share the components of the restart plan and revise same as may become necessary; and

- s. Establishment of COVID-19 testing guidance and contact tracing protocols developed in consultation with local health officials and in line with existing State and federal health privacy statutes and regulations. At a minimum, such protocols should include a mechanism to maintain a log of students, faculty, staff and visitors to facilitate contact tracing, and the reporting of any instances of COVID-19 to local health officials.

Following submission to the Secretary, such restart plan must be posted on the IHE's website and provided to students and staff in advance of the anticipated date for implementation.

5. Degree-granting IHEs that previously received a waiver to resume in-person instruction pursuant to Executive Orders No. 104 and 107 (2020) must comply with the requirements outlined in Paragraph 4, as well as all applicable health and safety standards and Executive Orders, within two weeks of the effective date of this Order.

6. The Secretary shall otherwise retain the authority to grant waivers to degree-granting IHEs on a case-by-case basis to allow in-person instruction beyond that authorized by Paragraph 1 of this Order where a compelling rationale to allow such instruction exists. All waiver applications must include, at minimum, the following components:

- a. A description of the compelling rationale for providing in-person instruction beyond that authorized by Paragraph 1 of this Order;



- b. A description as to why the instruction cannot be provided through either online instruction or distance education;
- c. A description of other options the IHE has explored as an alternative to in-person instruction, including alternate forms of instruction or the postponement of academic programming, and an explanation for why these options were not adopted;
- d. An estimate of the number of students affected by the proposed waiver; and
- e. A restart plan that addresses how the IHE will protect the health and safety of students and staff affected by the proposed waiver.

7. Programs, classes, or degree-granting IHEs that are not permitted to resume in-person instruction pursuant to this Order shall remain subject to the prohibitions in Executive Order No. 107 (2020).

8. Nothing in Paragraph 1 of this Order shall be construed to preclude IHEs from continuing to provide instruction and services to students and members of the public in a form other than in-person instruction.

9. Paragraph 3 of Executive Order No. 104 (2020) and Paragraph 13 of Executive Order No. 107 (2020) are hereby superseded to the extent inconsistent with this Order.

10. Effective July 1, 2020, notwithstanding any prior actions taken by State agencies to the contrary, all private trade schools, career schools and other post-secondary facilities that offer or maintain a course of instruction or instructional program utilized to prepare individuals for future education or the

workplace but are not subject to oversight by the Secretary ("training schools") shall be permitted to resume in-person instruction, including laboratory or clinical components, provided that the training school complies with all applicable Executive Orders and has in place a restart plan that includes, at minimum, policies and procedures that provide for the following:

- a. Training for students regarding COVID-19 sanitization and social distancing practices and protocols as a condition for resuming in-person instruction;
- b. Training for faculty and staff on appropriate sanitization and social distancing practices and protocols, as well as institutional policies and procedures developed to limit the spread of COVID-19;
- c. Use of face coverings for faculty, staff, students, and visitors, except when doing so would inhibit the individual's health;
- d. Frequent cleaning and sanitization of classrooms, restrooms, high-touch areas and equipment and shared surfaces;
- e. Maintenance of adequate supplies, such as personal protective equipment and cleaning supplies;
- f. Installation of hand sanitizing stations with 60 percent or more alcohol content at all building entry points and throughout the school;
- g. The option of remote instruction for faculty and students who are unable to participate in in-person instruction;

- h. Performance of health screenings for faculty, staff, students and visitors, and education regarding self-monitoring for symptoms;
- i. Social distancing in classrooms, workstations, laboratories, clinical settings, and student seating areas throughout the training school and a plan for providing smaller class sizes if feasible;
- j. Plan for staggering start, break, and end times of class periods, or alternating scheduled class days to reduce crowding at the training school and classroom entryways;
- k. Commitment to working with local and State officials, including the local health department and local office of emergency management, to share the components of the restart plan and revise same as may be necessary; and
- l. Establishment of COVID-19 testing guidance and contact tracing protocols developed in consultation with local health officials and in line with existing State and federal health privacy statutes and regulations. At a minimum, such protocols should include a mechanism to maintain a log of students, faculty, staff, and visitors to facilitate contact tracing, and the reporting of any instances of COVID-19 to local health officials.

The above policies and procedures must be posted on the training school's website and provided to students and staff in advance of the anticipated date for implementation.

11. In addition to complying with all other applicable requirements of this Order, training schools and programs subject to accreditation, approval, or licensure by any professional licensing board within the Division of Consumer Affairs shall submit their restart plans to the applicable board prior to the resumption of in-person education and comply with all applicable rules or standards promulgated by the board or the Director of the Division of Consumer Affairs, including any Administrative Order issued pursuant to P.L.2020, c.18. To the extent that any clinical or hands-on instruction entails the provision of licensed services, training schools must ensure that such services are performed in a manner consistent with all requirements applicable to licensees performing those services. The provision of personal care services by students at such training schools to members of the public shall remain prohibited until such time as the Director of the Division of Consumer Affairs shall adopt an Administrative Order pursuant to P.L.2020, c.18, establishing standards for the supervision of students providing such services.

12. Any actions taken by any State agency pursuant to this Order shall not be subject to the requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

13. 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.

14. 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.

15. 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.

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

17. This Order shall take effect immediately.

GIVEN, under my hand and seal this  
18<sup>th</sup> day of June,  
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

# EXHIBIT I

**EXECUTIVE ORDER NO. 156**

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, and 151, issued on April 7, 2020, May 6, 2020, and June 4, 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. 140-155 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, among these actions, and 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) to order steps to mitigate community spread of COVID-19, including to cancel all gatherings in the State; 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, and in the rate of reproduction for COVID-19 infections in New Jersey, the State can take steps and has taken 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 ("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 State is in the second phase of the reopening process and has begun to relax restrictions on activities where appropriately safeguarded, especially outdoor activities; and

WHEREAS, the CDC has issued guidance for mass gatherings or large community events, such as conferences, festivals, parades, concerts, sporting events, weddings, 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 decreases in a state, the state can significantly adjust its limits on indoor and outdoor gatherings; and

WHEREAS, the fact that the spread of COVID-19 has been limited by the State's emergency measures does not in any way suggest that restrictions on gatherings can be lifted altogether, because absent social distancing measures, public health experts anticipate that the spread of COVID-19 would again significantly increase; and

WHEREAS, the restrictions on indoor gatherings that remain in place may be more stringent than the restrictions that are in place for indoor retail settings, because in such retail settings individuals neither congregate in large groups nor remain in close proximity for extended periods, which are factors that have been linked to the increased risk of COVID-19 transmission; and

WHEREAS, because public health experts have identified that outdoor environments present reduced risks of transmission as compared to indoor environments, it is appropriate to adjust the restrictions relative to gatherings that happen outdoors even more considerably, meaning that certain gatherings that could not take place indoors may still happen in open-air outdoor spaces, but participants should maintain reasonable restrictions to help limit

the spread and prevent future outbreaks of COVID-19 and to protect the health, safety, and welfare of New Jersey residents; and

WHEREAS, even where a gathering is permitted, the protective measures that individuals should take, including use of masks and social distancing, remain important, most especially for larger gatherings, because as the CDC has recognized, an increase in the number of participants will offer more opportunities for person-to-person contact, and will also present a higher risk of a super-spread event, especially when it takes place indoors; and

WHEREAS, consistent with the above principles, I signed Executive Order No. 152 (2020), limiting the number of persons at indoor gatherings to 25% of the capacity of the room in which it takes place, and stating that such limit, regardless of the capacity of the room, shall never be larger than 50 persons or smaller than 10 persons; and

WHEREAS, Executive Order No. 152 (2020) also limited the number of persons at outdoor gatherings to 100 persons, but stated that this limit does not apply to an outdoor gathering that is a religious service or political activity, such as a protest; and

WHEREAS, in the two weeks since Executive Order No. 152 (2020) was signed, the number of new cases has continued to decrease, and there has been a continued decline in COVID-19 related hospitalizations, ICU admissions, and ventilator usage; and

WHEREAS, in light of this continued progress, it is both appropriate to further relax the limits on both indoor and outdoor gatherings and to continue to do so in a gradual way, so that the State can continue to assess the progress of new COVID-19 cases and hospitalizations, and to monitor the rate of reproduction and the percentage of COVID-19 tests that yield positive results,

relative to the new limits, and thereby avoid the spread of COVID-19 being identified in other parts of the country; and

WHEREAS, because outdoor gatherings present a lower risk of transmission than indoor gatherings, it is reasonable to allow the limit of persons at outdoor gatherings to increase at a faster rate than the limit of persons at indoor gatherings; 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 1(a) of Executive Order No. 152 (2020) is hereby superseded, and the number of individuals at indoor gatherings shall be limited to 25% 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 100 persons or smaller than 10 persons. All other requirements for indoor gatherings contained in Paragraph 1 of Executive Order No. 152 (2020) shall remain in effect.

2. Paragraph 2(a) of Executive Order No. 152 (2020) is hereby superseded, and the number of individuals at outdoor gatherings shall be limited to 250 persons or fewer. All other requirements for outdoor gatherings contained in Paragraph 2 of Executive Order No. 152 (2020) shall remain in effect, including

the provision in Paragraph 2(f) that states 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.

3. 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, and/or 152 (2020) are amended to reflect the rules on gatherings stated in this Order, including, for example, the limit on occupancy on personal care premises, which was subject to the indoor gathering limit under Division of Consumer Affairs Administrative Order No. 2020-09.

4. For the purposes of Executive Order No. 150 (2020), "outdoor areas" shall be defined as open air spaces without a fixed roof, besides a temporary or seasonal awning or cover.

5. 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.

6. 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, and to cooperate fully with Administrative Orders issued pursuant to this Order.

7. 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.

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

9. 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  
22<sup>nd</sup> day of June,  
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

# **EXHIBIT J**

**EXECUTIVE ORDER NO. 157**

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, and 151, issued on April 7, 2020, May 6, 2020, and June 4, 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. 140-156 (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, 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 can 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 ("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 State is implementing its reopening process and has begun to relax restrictions on certain businesses, including the resumption of non-essential construction, the allowance of a number of lower-risk outdoor activities, and the opening of all retail establishments; and

WHEREAS, consistent with this 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, consistent with this Plan, I issued Executive Order No. 153 (2020), which permitted recreational and entertainment businesses to reopen the outdoor portions of their premises to the public, again with social distancing requirements; and

WHEREAS, while outdoor spaces continue to present a lower risk of COVID-19 transmission than indoor spaces, because of our continued progress in the fight against COVID-19, restaurants, bars, and other food or beverage establishments can begin to offer in-person dining indoors; and

WHEREAS, because of our continued progress, most recreational and entertainment businesses can now allow the public into their indoor spaces for activity, including but not limited to libraries, museums, aquariums, and public and private social clubs; and

WHEREAS, because public health experts have identified that indoor environments present increased risks of transmission as compared to outdoor environments, it is appropriate to impose even stricter social distancing measures and sanitization protocols on indoor dining and indoor recreational and entertainment businesses than are placed on their outdoor counterparts, including capacity limits to limit person-to-person contact and a requirement that individuals wear masks at all feasible times to reduce the risk of COVID-19 transmission when such contact does occur; and

WHEREAS, because indoor dining and indoor recreational and entertainment businesses also both entail a higher risk than indoor retail settings, as the former involves individuals congregating together in one location for a prolonged period of time, while in indoor retail settings, individuals neither congregate in large groups nor remain in close proximity for extended periods and so the risk of COVID-19 spread is reduced, it is also appropriate to impose stricter capacity limits on indoor dining and indoor

recreational and entertainment businesses than are currently imposed on indoor retail settings; and

WHEREAS, although individuals in the indoor premises of all business establishments are required to wear a mask at all times, it is not possible for a customer to wear a mask when consuming food or beverage, meaning that all customers at any indoor food or beverage establishment must only be allowed to consume such food or beverage while seated at their table or at an individual seat, to minimize the risk of any person-to-person contact taking place between patrons without masks in any indoor space; and

WHEREAS, self-serve arrangements at food and beverage establishments, such as buffets, facilitate person-to-person contact and involve the use of common equipment and thus create an unnecessary risk of transmission and must remain prohibited, as the Centers for Disease Control and Prevention ("CDC") have suggested; and

WHEREAS, in heavily regulated industries such as casinos and racetracks, where expert State agencies have special knowledge of and experience with the businesses' operations, these industries can and should be subject to any additional health and safety protocols that those appropriate authorities believe would be consistent with public health and industry operations; and

WHEREAS, even as the State begins to allow recreation and entertainment businesses to reopen their indoor premises to the public with strict social distancing requirements, certain indoor entertainment businesses still pose an unacceptably high risk of transmission of COVID-19 at this time; and

WHEREAS, in particular, performance-based locations such as movie theaters, performing arts centers, and other concert venues, must remain closed to the public at this time, because those

businesses necessitate a large number of individuals congregating together concurrently in one indoor location for an unusually prolonged period of time, even more so than in other recreational and entertainment businesses where individuals do not inherently spend as prolonged an amount of time together in one single room or location, and because there are an especially high number of available outdoor and virtual options for members to the public to view and listen to movies and other performances, whether live or otherwise, that reduce the risk of indoor person-to-person contact and COVID-19 transmission; and

WHEREAS, indoor gyms, sports facilities, and fitness centers present particularly high risks of COVID-19 transmission, where people are congregating in a confined indoor space and working out, which entails sustained physical activity resulting in heavy breathing and exhalations that can increase the risk of COVID-19 spread, and where exercise equipment is shared by many different people over the course of the day, creating an additional danger of COVID-19 spread, and there are a high number of outdoor recreation opportunities to ensure that members of the public can engage in a wide range of exercise and fitness; and

WHEREAS, even as individual performance-based locations and gyms and fitness centers may take additional measures to address COVID-19 transmission, it will not be administrable, enforceable, and/or otherwise sufficiently protective of public safety to simply allow business owners to set their own divergent health measures, done without approval of the State and its health officials; and

WHEREAS, because dance floors by their nature are designed to facilitate especially close person-to-person contact, they must remain closed to the public at this time, even at establishments,

such as food or beverage establishments, that are otherwise now permitted to reopen to the public; and

WHEREAS, because amusement and water parks include many high touch areas that make social distancing guidelines and capacity limits difficult to implement, maintain, monitor, and enforce, they must be subject to stricter capacity limits than other outdoor environments, and like gyms and fitness centers, cannot yet open their indoor premises to the public; and

WHEREAS, because gatherings bring people together to a specific location for a common reason and a common period of time, they create an increased risk of person-to-person interaction and contact among those participants that must be appropriately curtailed, especially when they take place indoors; 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 retail establishments may open their premises to the public, whether that premises is indoors or outdoors, provided that they adopt policies that include, at minimum, the following requirements:

- a. Limit occupancy of any indoor premises to 50% of the stated maximum store capacity, if applicable, at one time, excluding the retail establishment's employees;
- b. Limit total capacity of any outdoor area to a number that ensures that all individuals can remain six feet apart;
- c. Establish hours of operation, wherever possible, that reserve a designated period of access solely to high-risk individuals, as defined by the CDC;
- d. 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;
- e. Require infection control practices, such as regular hand washing, coughing and sneezing etiquette, and proper tissue usage and disposal;
- f. Provide employees break time for repeated handwashing throughout the workday;
- g. 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;
- h. Provide sanitization materials, such as hand sanitizer and sanitizing wipes, to staff and customers;
- i. Require frequent sanitization of high-touch areas like restrooms, credit card machines, keypads, counters and shopping carts;

- j. Place conspicuous signage at entrances and throughout the store, if applicable, alerting staff and customers to the required six feet of physical distance;
- k. Demarcate six feet of spacing in check-out lines to demonstrate appropriate spacing for social distancing; and
- l. Require workers and customers to wear cloth face coverings while in the indoor portion of 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 the individual entry into the indoor premises. If the business is providing medication, medical supplies, or food, the business policy should provide alternate methods of pickup and/or delivery of such goods for such individual. 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 in the indoor 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. Personal care service facilities, which collectively refers to cosmetology shops; barber shops; beauty salons; hair braiding shops; nail salons; electrology facilities; spas, including day spas and medical spas, at which solely elective and cosmetic medical procedures are performed; massage parlors, tanning salons, and tattoo parlors, may open their premises to the public provided that such businesses adopt policies that they comply with the standards issued by the Division of Consumer Affairs and DOH, as applicable. Additionally, notwithstanding any provision of DOH Executive Directive No. 20-015 or Division of Consumer Affairs Administrative Order No. 2020-09 prohibiting services that would require the removal of a client's face covering, such personal care services may be provided as of 6:00 a.m. on Thursday, July 2, 2020, provided that clients must wear a face covering at all times before and after the service, and subject to Paragraph 3 of this Order and any enhanced standards for the provision of such services as the Division of Consumer Affairs or DOH may adopt, as applicable.

3. Notwithstanding Paragraph 2 of this Order, personal care services offered outside of personal care service facilities or of health facilities providing medically necessary or therapeutic services shall remain prohibited pursuant to Administrative Order No. 2020-10, until explicitly authorized by an order from the State

Director of Emergency Management. If such an order is issued by the State Director of Emergency Management, these personal care services must be provided in a manner that complies with standards issued by the Division of Consumer Affairs and DOH, as applicable, and all other applicable laws and regulations. Nothing in this paragraph shall be construed to preclude an individual from providing personal care services in a shop, office, or other premises licensed, or otherwise authorized by the Division of Consumer Affairs or one of its licensing boards or DOH that is located in a residence, provided they comply with standards issued by the Division of Consumer Affairs and DOH, as applicable, and all other applicable laws and regulations.

4. 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," are permitted to offer in-person service at outdoor areas, defined as open air spaces without a fixed roof, besides a temporary or seasonal awning or cover, provided that the establishment complies with the following requirements:

- a. Ensure all areas designated for food and/or beverage consumption are in conformance with applicable local, State, and Federal regulations;
- b. Limit capacity to a number that ensures all patrons can remain six feet apart from all other patrons at all times, except for those patrons with whom they are sharing a table;
- c. Ensure that tables where individuals or groups are seated remain six feet apart in all directions from any other table or seat and that individual seats



in any shared area that is not reserved for individual groups, such as an outdoor bar area, are also six feet apart in all directions from any other table or seat;

- d. Prohibit patrons being served at outdoor areas from entering the indoor premises of the food or beverage establishment, except to walk through such premises when entering or exiting the food or beverage establishment in order to access the outdoor area, or to use the restroom;
- e. Require patrons being served at outdoor areas to wear a face covering while inside the indoor premises of the food or beverage establishment, unless the patron has a medical reason for not doing so or is a child under two years of age;
- f. Prohibit smoking in any outdoor areas designated for the consumption of food and/or beverages. The requirement that food or beverage establishments impose this prohibition shall sunset at 6:00 a.m. on Thursday, July 2, 2020, although food or beverage establishments can choose to continue this prohibition; and
- g. Abide by all other health and safety standards issued by the Commissioner of the Department of Health, consistent with her authority under the Emergency Health Powers Act.

5. Effective at 6:00 a.m. on Thursday, July 2, 2020, food or beverage establishments are permitted to offer in-person service at indoor areas, provided that the establishment complies with the following requirements:

- a. Limit the number of patrons in indoor areas to 25 percent of the food or beverage establishment's indoor capacity, excluding the food or beverage establishment's employees;
- b. Ensure that tables where individuals or groups are seated are six feet apart in all directions from any other table or seat and that individual seats in any shared area that is not reserved for individual groups, such as an indoor bar area, are also six feet apart in all directions from any other table or seat;
- c. Require patrons to wear face coverings while inside the indoor premises of the food or beverage establishment, except when seated at their table or in their individual seat. This requirement does not apply if the patron has a medical reason for not wearing a face covering or is a child under two years of age;
- d. Food or beverage establishments with table service may only allow patrons to place orders when seated, and only wait staff may bring food or beverages to seated patrons;
- e. Patrons may only consume food or beverages while seated; and
- f. Abide by all other health and safety standards issued by the Commissioner of the Department of Health, including infection control practices and other sanitization protocols, consistent with her authority under the Emergency Health Powers Act.

6. Nothing in this Order shall prevent a food or beverage establishment that offers take-out options from allowing an individual who is seeking take-out rather than table service to enter the indoor premises of the establishment to place an order, make payment, and pick up food or beverages, including in situations where a food or beverage establishment makes outdoor areas without table service available. Such individuals shall wear a face covering while inside the indoor premises of the food or beverage establishment, unless the individual has a medical reason for not doing so or is a child under two years of age.

7. Prior to 6:00 a.m. on Thursday, July 2, 2020, the rules for recreational and entertainment businesses that were instituted in Executive Order No. 153 (2020) remain in effect. As of 6:00 a.m. on Thursday, July 2, 2020, all recreational and entertainment businesses may open their entire premises, whether indoor or outdoor, to the public, unless otherwise prohibited by this Order, provided that such businesses adopt policies that include, at minimum, the following requirements:

- a. Limit the number of patrons in any indoor premises to 25 percent of the stated maximum capacity, if applicable, at one time, excluding the recreational or entertainment business's employees;
- b. Limit total capacity of any outdoor area to a number that ensures that all individuals can remain six feet apart, except for amusement parks, water parks, and pools, which are limited to 50 percent capacity, excluding the employees of those businesses;

- c. Require that reservations, cancellations and pre-payments be made via electronic or telephone reservation systems to limit physical interactions. Such policies shall, wherever possible, consider populations that do not have access to internet service or credit cards;
- d. Install a physical barrier, such as a shield guard, between visitors and employees wherever feasible or otherwise ensure six feet of distance between those individuals, except at the moment of payment;
- e. Limit the use of equipment rented or otherwise provided by the business to one person at a time, excluding immediate family members, caretakers, household members, or romantic partners, and sanitize such equipment before and after use;
- f. Demarcate and post signs that denote six feet of spacing in all commonly used and other applicable areas or where people may form a line;
- g. Require infection control practices, such as regular hand washing, coughing and sneezing etiquette, and proper tissue usage and disposal;
- h. Provide employees break time for repeated handwashing throughout the workday;
- i. Provide sanitization materials, such as hand sanitizer and sanitizing wipes, to staff and customers;
- j. Limit occupancy in restrooms that remain open to avoid over-crowding and maintain social distancing through signage and, where practicable, the utilization of attendants to monitor capacity;

- k. Require frequent sanitization of high-touch areas including, at minimum, the following cleaning protocols:
  - i. Routinely clean and disinfect all high-touch areas in accordance with DOH and CDC guidelines, particularly in spaces that are accessible to staff, customers, or members, or other individuals, including, but not limited to, restroom and locker facilities, counter tops, hand rails, door knobs, other common surfaces, safety equipment, and other frequently touched surfaces including employee used equipment, and ensure cleaning procedures following a known or potential exposure in compliance with CDC recommendations;
  - ii. Clean and disinfect equipment that is rented in accordance with CDC and DOH guidelines; and
  - iii. Train and equip employees to perform the above protocols effectively and in a manner that promotes the safety of the visitors and staff;
- l. Place additional restrictions on areas of the business, as necessary, to limit person-to-person interactions and facilitate appropriate social distancing;
- m. 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;

- n. 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;
- o. Clean and disinfect the worksite in accordance with CDC guidelines when a worker at the site has been diagnosed with COVID-19 illness;
- p. 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;
- q. Require workers and customers to wear cloth face coverings while in the indoor portion of 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 the individual entry into the indoor premises. 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 in the indoor 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; and

- r. The requirement listed above in Paragraph 7(q) shall not apply where impracticable, such as when individuals are eating or drinking while seated, or in an aquatic space such as a pool.

8. The following recreational and entertainment businesses may open their outdoor spaces to the public, but may not open their indoor spaces to the public, except that members of the public may enter the indoor premises of the recreational business when entering or exiting the establishment in order to access the outdoor area, or to use the restroom:

- a. "Health clubs," as defined by N.J.S.A. 56:8-39, which include gyms and fitness centers, as well as any health club facilities located in hotels, motels, condominiums, cooperatives, corporate offices, or other business facilities;
- b. Entertainment centers where performances are viewed or given, including movie theaters, performing arts centers, other concert venues; and
- c. Amusement or water parks that are indoors.

9. Any establishment open to the public, including a food or beverage establishment, must cordon off any indoor or outdoor dance floors to the public.

10. Notwithstanding the prohibition on health clubs opening their indoor spaces to the public, such health clubs may open indoor premises to the public to offer individualized indoor instruction by appointment only where an instructor is offering training to an individual, and the individual's immediate family members, household members, caretakers, or romantic partners. If a health club is offering multiple simultaneous instructions at the same facility, these instructions must take place in separate rooms or, if they take place in the same room, must be separated by a floor-to-ceiling barrier that complies with all fire code requirements.

11. Notwithstanding the other requirements contained in this Order, casinos, including casino gaming floors and retail sports wagering lounges, may only reopen their premises to the public if they comply with any and all additional requirements imposed by the Division of Gaming Enforcement, and racetracks may only reopen their premises to the public if they comply with any and all existing and additional requirements imposed by any relevant State entity, including the New Jersey Racing Commission and the New Jersey Office of Emergency Management.

12. Notwithstanding the above paragraphs, amusement and water parks are permitted to open their outdoor premises to the public only where they are in compliance with the health and safety standards issued by the Commissioner of the DOH.

13. Notwithstanding the above paragraphs, pool facilities are permitted to open to the public only where they are in compliance with the health and safety standards issued by the Commissioner of the DOH. Effective at 6:00 a.m. on Thursday, July 2, 2020, aquatic recreation facilities and water fountains



(those considered recreational, not those for drinking) are permitted to be open to the public.

14. Effective at 6:00 a.m. on Thursday, July 2, 2020, playgrounds, including playgrounds at pool facilities, are permitted to be open to the public.

15. Individuals who are at any of these businesses at a specific time, a specific location, and for a common reason, such as a poker tournament at a casino, a wedding at a restaurant, or an outdoor concert or movie screening, are subject to the State gathering limits in effect at that time, which were most recently laid out in Executive Order No. 156 (2020).

16. Any prior requirements imposed by an Executive Order issued on or after March 21, 2020, that are inconsistent with the terms of this Order are hereby superseded.

17. 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.

18. 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.

19. 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.

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

21. 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  
26<sup>th</sup> day of June,  
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

# EXHIBIT K

**EXECUTIVE ORDER NO. 158**

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, and 151, issued on April 7, 2020, May 6, 2020, and June 4, 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. 140-157 (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, 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 ("DOH"), I announced a multi-stage New Jersey's Road Back Plan ("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, this 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 the State has been more willing to allow businesses to reopen outdoor areas to the public, and meaning that the State has also imposed stricter social distancing limits on indoor premises when businesses are permitted to reopen them to the public; and

WHEREAS, consistent with this 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, but did not allow for food or beverage consumption at indoor premises; and

WHEREAS, even as the State began to permit businesses to reopen additional indoor premises to the public, the State required all individuals to wear masks inside those premises, because masks 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, as the State has consistently recognized, indoor activities that cannot be done with a face covering on, such as eating or drinking indoors, thus pose a particularly high risk of transmission; and

WHEREAS, while personal care services that require the removal of a face covering can resume on Thursday, July 2, 2020, those services only involve the client interacting with one other person for a discrete period of time in a controlled environment, where the person performing the services is required to wear heavily protective equipment such as a face shield; and

WHEREAS, because of the enormous progress we have 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 (2020); and

WHEREAS, I have routinely made these announcements one to two weeks in advance of their effective dates in order to give businesses adequate time to prepare, but I have always stated that

the implementation is subject to modifications based on the data, the facts that we are observing in real-time, and the ongoing input of the Commissioner of DOH; and

WHEREAS, in the seven days since June 22, 2020, we have seen alarming spikes in COVID-19 cases across the nation, particularly in states that reopened at a faster rate, and that did not follow the same gradual and methodical reopening plan as New Jersey; and

WHEREAS, the Governors and/or Health Commissioners in a number of the states that have been hardest hit by the spikes in COVID-19 cases, including Florida and Texas, have attributed the rise in cases to activities in indoor food and beverage establishments, and a number of independent public health experts have reached the same conclusion; and

WHEREAS, because the State has previously recognized the benefits of addressing the spread of COVID-19 on a regional basis, it is also notable that both the Governor of New York and the Mayor of New York City have indicated that they may pause the resumption of indoor dining based on what they have seen in other states; and

WHEREAS, given these spikes in COVID-19 cases that have been attributed to indoor food and beverage establishments, and given the well-established risks that such establishments present given the lack of mask usage indoors, it is necessary to temporarily pause the resumption of indoor dining in New Jersey, while we continue to learn more about what has prompted the spikes in other states and examine whether there are additional protocols that could be instituted to reduce the risks associated with indoor dining; and

WHEREAS, this means that the consumption of food or beverages will not be allowed in the indoor premises of any business open to the public, including casinos; and

WHEREAS, smoking on the premises of any indoor business that is now permitted to reopen to the public, even while permitted in the indoor areas of casinos under State law, cannot be allowed to take place at this time because it would entail individuals removing their masks indoors; and

WHEREAS, other indoor recreational and entertainment businesses that are scheduled to reopen on Thursday, July 2, 2020, can still reopen because face coverings will be required for all individuals on the premises except for children under two years of age and except where doing so would inhibit an individual's health; 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 5 of Executive Order No. 157 (2020), which allowed "food or beverage establishments" to offer in-person service at indoor areas effective at 6:00 a.m. on Thursday, July 2, 2020, is hereby rescinded.



2. Any retail, recreational, and entertainment business that is authorized to open its indoor premises to the public may only do so where it prohibits the consumption of food or beverages and smoking in those indoor premises.

3. Smoking in the indoor areas of any retail, recreational, and/or entertainment business, including casinos, is prohibited, even when otherwise permitted by State law.

4. Any individual who consumes food or beverages or engages in smoking in the indoor premises of any retail, recreational, or entertainment business that are open to the public is in violation of this Order. Nothing in this Order shall prevent a person from engaging in conduct necessary for their health or safety, such as a person briefly removing their mask to drink water. Nothing in this Order shall prevent a business's employee from consuming food or beverages in any area of the business that is not open to the public, such as an employee break room.

5. Paragraph 4(f) of Executive Order No. 157 (2020) is hereby rescinded, and the prohibition on smoking in any outdoor areas designated for the consumption of food and/or beverages shall continue beyond 6:00 a.m. on Thursday, July 2, 2020. This required prohibition shall automatically sunset once in-person service is allowed at indoor areas of food or beverage establishments.

6. 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.

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 Order.

8. 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.

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

10. 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  
29<sup>th</sup> day of June,  
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

# **EXHIBIT L**

**EXECUTIVE ORDER NO. 161**

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, and 151, issued on April 7, 2020, May 6, 2020, and June 4, 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. 140-160 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, among these actions, and 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) to order steps to mitigate community spread of COVID-19, including to cancel all gatherings in the State; 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, and in the rate of reproduction for COVID-19 infections in New Jersey, the State can take steps and has taken 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 ("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 State is in the second phase of the reopening process and has begun to relax restrictions on activities where appropriately safeguarded, especially outdoor activities; and

WHEREAS, the CDC has issued guidance for mass gatherings or large community events, such as conferences, festivals, parades, concerts, sporting events, weddings, 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 decreases in a State, the State can significantly adjust its limits on indoor and outdoor gatherings; and

WHEREAS, the fact that the spread of COVID-19 has been limited by the State's emergency measures does not in any way suggest that restrictions on gatherings can be lifted altogether, because absent social distancing measures, public health experts anticipate that the spread of COVID-19 would again significantly increase; and

WHEREAS, the restrictions on indoor gatherings that remain in place may be more stringent than the restrictions that are in place for indoor retail settings, because in such retail settings individuals neither congregate in large groups nor remain in close proximity for extended periods, which are factors that have been linked to the increased risk of COVID-19 transmission; and

WHEREAS, because public health experts have identified that outdoor environments present reduced risks of transmission as compared to indoor environments, it is appropriate to adjust the restrictions relative to gatherings that happen outdoors even more considerably, meaning that certain gatherings that could not take place indoors may still happen in open-air outdoor spaces, but participants should maintain reasonable restrictions to help limit the spread and prevent future outbreaks of COVID-19 and to protect the health, safety, and welfare of New Jersey residents; and

WHEREAS, even where a gathering is permitted, the protective measures that individuals should take, including use of masks and social distancing, remain important, most especially for larger gatherings, because as the CDC has recognized, an increase in the number of participants will offer more opportunities for

person-to-person contact, and will also present a higher risk of a super-spread event, especially when it takes place indoors; and

WHEREAS, consistent with the above principles, I signed Executive Order No. 156 (2020), limiting the number of persons at indoor gatherings to 25% of the capacity of the room in which it takes place, and stating that such limit, regardless of the capacity of the room, shall never be larger than 100 persons or smaller than 10 persons; and

WHEREAS, Executive Order No. 156 (2020) also limited the number of persons at outdoor gatherings to 250 persons, but stated that this limit does not apply to an outdoor gathering that is a religious service or political activity, such as a protest; and

WHEREAS, in the 10 days since Executive Order No. 156 (2020) was signed, the number of new cases has remained steady, and there has been a continued decline in COVID-19 related hospitalizations, Intensive Care Unit (ICU) admissions, and ventilator usage; and

WHEREAS, in light of this continued progress, it is both appropriate to further relax the limits on outdoor gatherings and to continue to do so in a gradual way, so that the State can continue to assess the progress of new COVID-19 cases and hospitalizations, and to monitor the rate of reproduction and the percentage of COVID-19 tests that yield positive results, relative to the new limits, and thereby avoid the increased spread of COVID-19 being identified in other parts of the country; and

WHEREAS, because outdoor gatherings present a substantially lower risk of transmission than indoor gatherings, it is reasonable to allow the limit of persons at outdoor gatherings to increase while keeping the limit of persons at indoor gatherings the same, particularly as other states around the country have reported spikes

in COVID-19 cases that public health experts believe to be driven by indoor 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:24 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 2(a) of Executive Order No. 152 (2020) is hereby superseded and the number of individuals at outdoor gatherings shall be limited to 500 persons or fewer. All other requirements for outdoor gatherings contained in Paragraph 2 of Executive Order No. 152 (2020) shall remain in effect, including the provision in Paragraph 2(f) that states 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. Paragraph 2 of Executive Order No. 156 (2020) is hereby rescinded.

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

3. 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.



4. 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, and to cooperate fully with Administrative Orders issued pursuant to this Order.

5. 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.

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

7. This Order shall take effect at 6:00 a.m. on Friday, July 3, 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  
2<sup>nd</sup> day of July,  
Two Thousand and Twenty, and of  
the Independence of the United  
States, the Two Hundred and  
Forty-Fourth.

[seal]

/s/ Philip D. Murphy

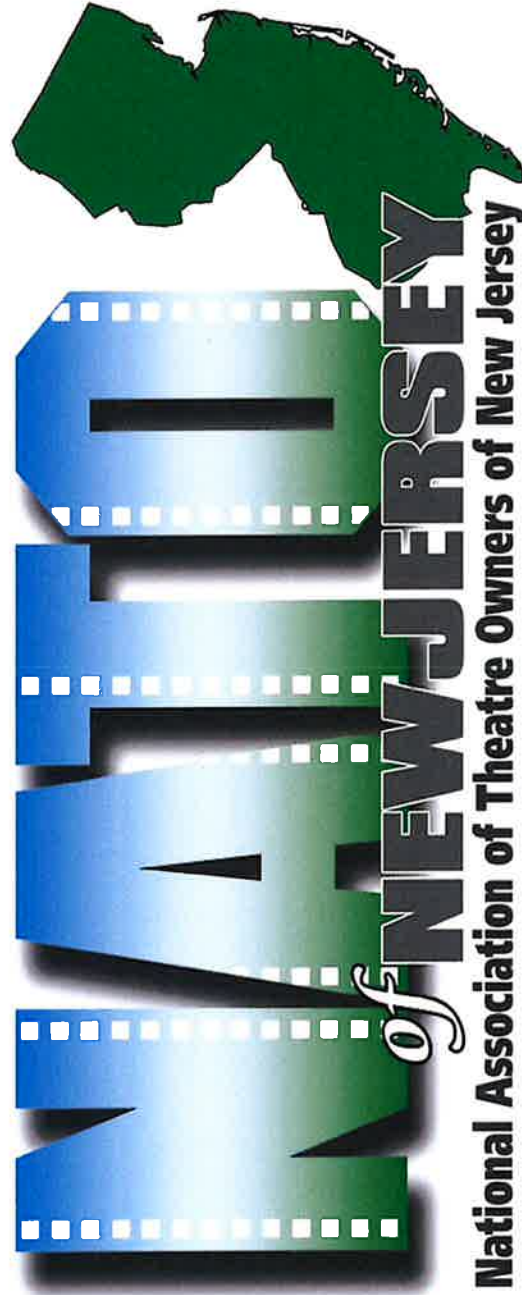
Governor

Attest:

/s/ Matthew J. Platkin

Chief Counsel to the Governor

# **EXHIBIT M**



# Re-Opening Plan for NJ Movie Theatres

June 18, 2020

# About NATO



Advancing the Moviegoing Experience

National Association of Theatre Owners  
1705 N Street NW  
Washington, DC 20036

The National Association of Theatre Owners (NATO) is the largest exhibition trade organization in the world, representing over 35,700 movie screens in the USA, and cinemas in 100 countries worldwide.

## NATO STATEMENT ON EARLY STATE RE-OPENINGS

April 22, 2020 - "While some states and localities are beginning to authorize the opening of movie theaters under certain conditions, the movie theater industry is also a national one. Until the majority of markets in the U.S. are open, and major markets in particular, new wide release movies are unlikely to be available.

As a result, some theaters in some areas that are authorized to open may be able *economically* to reopen with repertory product; however, many theaters will not be able to *feasibly* open."

# About NATO-NJ



National Association of Theatre Owners of New Jersey

National Association of Theatre Owners of NJ  
PO Box 19, Belle Mead, NJ 08502-0019  
(908) 369-6327

## Officers:

Robert Piechota, President  
Jesse Sayegh, Chair Emeritus  
Tom Arnold, Vice President  
John Halecky, Secretary  
Frank Gonzalez, Treasurer

NATO-NJ is an independent regional group of National NATO representing approximately 100 movie theaters with nearly 800 individual screens statewide. We are the source of more than 5,000 jobs in New Jersey.



A WENCA GROUP COMPANY

CITYPLEX 12  
A WENCA GROUP COMPANY



The Best in Art, Independent, and Foreign Films

# Re-opening Plan

June 18, 2020

NATO-NJ is committed to re-opening movie theaters in New Jersey with an abundance of caution while making health and safety our top priority.

Experts\* categorize Covid-19 exposure risk in a managed cinema environment to be equivalent to hair salons and barbershops that can implement reasonable and effective social distancing and related safety protocols, and safer than houses of worship.

\*\*Johns Hopkins Public Health Principles for a Phased Reopening During COVID-19: Guidance for Governors,” April 17, 2020.

## Re-opening Plan

The Re-opening Plan presented here has been designed to be adaptable to suit both larger chains and independent theaters. Our members' facilities in New Jersey range from single screen cinemas to multiplexes with more than 20 auditoriums.



## Main Elements of the Re-opening Plan

- Employee Requirements
- Patrons Requirements
- Ticket Sales
- Concessions Sales
- Seating
- Security
- Training
- General Items



## Employee Requirements (1 of 3)

- Masks and gloves will be required for all employees.
- Employees will not be allowed to begin work without this gear.
- Each employee will sign a document each day upon the start of their shift certifying they do not have any symptoms associated with Covid-19 and that they do not have a fever.
- Employees will be monitored regularly during the period the theater is open. If an employee becomes sick, they will be sent home immediately.
- Employees will be required to maintain social distancing as work duties permit in the workplace.

# Employee Requirements (2 of 3)

- Employees and/or third party contractors will clean, sanitize and disinfect public spaces, bathrooms and food preparation areas in accordance with options for consideration from NATO as well as guidance addressed to businesses including, but not limited to:
- Various state and municipal DOH requirements
- National Association of Theatre Owners - Reopening Operations Resources
- CDC – Covid-19 Reopening Guidance
- FDA – Food Safety During Emergencies/best practices retail food stores, restaurants...during Covid-19
- OSHA – Publication 3990. Guidance on Preparing Workplaces for Covid-19

## Employee Requirements (3 of 3)

- Employees or third party contractors will provide continual cleaning of the relevant areas and surfaces during the hours the theater is open and after the theater closes.
- During breaks, staff will maintain social distancing guidelines. Staff breaks will be staggered.
- Hiring will be conditioned on applicants signing a certification document acknowledging that they have been symptom-free for 14 days prior to their start date.
- Training will be provided to all employees on all Covid-19 policies being implemented prior to re-opening and when updates or changes are announced.

## Patron Requirements

- All patrons must wear masks as required by NJ Executive Order.
- Seating patterns will be adjusted in accordance with social distancing.
- Queue lines will maintain social distancing requirements.
- Restrooms will be cleaned frequently during theater opening hours.
- Signs will be posted to indicate that social distancing guidelines and other safety rules must be maintained.

## Ticket Sales

- Ticket sales will be conducted in compliance with any state mandates or guidance which may limit occupancy of each theater venue.
- When possible, touchless purchasing technology will be employed and patrons will be able to enjoy a contactless experience.
- For theaters lacking touchless capability, tickets will be purchased at designated locations where the employee and the patron will not have any direct physical contact and maintain a proper social distance.
- Plexiglass contact partitions will be employed at all customer service contact areas.
- Queues will be marked with measured 6-foot increments that patrons must adhere to while waiting to conduct transactions.

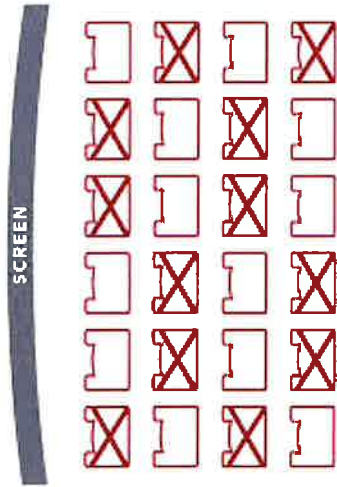
## Concessions Sales

- Queue lines will maintain physical distancing standards, patrons and employees will wear masks, and food service workers will wear gloves.
- Where possible, apps enabling pre-purchase of concessions will be employed and purchases will be delivered to patrons' seats, thus avoiding queue lines.
- Plexiglass contact partitions will be employed at all customer service contact areas.
- In addition to customer service contact areas, staff will maintain standards of sanitization at all self-service and courtesy areas and other contact points.



# Seating

## SOCIAL DISTANCING SEATING ARRANGEMENTS



Auditorium seating layouts vary significantly. Seats will be “blocked out” to accommodate 6 feet of spacing between non-household patrons. Household patron seating will be restricted.

- Seating patterns will be arranged to maintain social distancing between households on all sides (see example of potential seating pattern to the left).
- Reserved seating ticketing systems will be updated to require empty seats on either side of a household’s ticket purchase.
- If a theater does not have a reserved seating policy, an usher or theater manager will direct compliance with seating rules and monitor guests at routine intervals.
- Auditoriums will be cleaned between showtimes.

## Security

Theater staff will direct, monitor and enforce physical distancing guidelines in the auditoriums before and at certain intervals during the show as well as in other public areas of facilities.



## Training

- Management will ensure all employees are trained properly on safety and sanitizing procedures.
- Signs and placards will be placed in appropriate public areas reminding staff and patrons to adhere to safety policies. Proper markings on floors will be installed to assist in maintaining mandated physical distance levels.
- Signs will be posted outlining the policies and that if not followed the patron will be asked to leave the theater. Further, all safety policies will be posted on the theater's website.

## General

- Showtimes will be staggered to ensure capacity is controlled and enough time is allotted for entry and exit as well as cleaning the theatres
- Extra hand sanitizer stations will be located throughout facilities.
- Facility HVAC system air exchangers will be calibrated to maximize replacement of indoor air with fresh air.
- Independent theaters with smaller lobby areas and other limited space, and limited technology, will make every effort to adhere to the guidelines outlined above.
- Theaters and patrons will be required to follow the CDC Coronavirus Prevention Guidelines, NJ DOH requirements, and all social distancing requirements established by the Governor in the delivery of these services.

The movie theater industry knows it has to re-establish the love of the communal experience of going out and sharing the event that so many of us cherish. It can only return if patrons feel safe.

## Conclusion

We recognize the importance of giving people a place to once again “escape” their homes, even for just a couple of hours, and feel part of a community, but with safeguards in place to address the “new normal.” We believe we can provide this entertainment outlet safely by limiting capacity and ensuring the safety of our employees and the public health at the same time.

## Contact

For questions and clarifications on the NATO-NJ Reopening Plan, please contact:

**Robert Piechota**  
**President, NATO-NJ**  
**PO Box 19, Belle Mead, NJ**  
**08502-0019**

**Tel: (908) 369-6327**

**Email: [stageten@aol.com](mailto:stageten@aol.com)**

# **EXHIBIT N**



## GUIDELINES

# OPENING UP AMERICA AGAIN

President Trump has unveiled Guidelines for Opening Up America Again, a three-phased approach based on the advice of public health experts. These steps will help state and local officials when reopening their economies, getting people back to work, and continuing to protect American lives.

↓ ENGLISH

↓ ESPAÑOL

## OVERVIEW

### CRITERIA



before proceeding to a phased opening.



## PREPAREDNESS



What States should do to meet the challenges ahead.



## PHASE GUIDELINES



Responsibilities of individuals and employers during all phases,  
and in each specific phase of the opening.





# Proposed State or Regional Gating Criteria

*Satisfy Before Proceeding to Phased Comeback*

## SYMPTOMS

Downward trajectory of influenza-like illnesses (ILI) reported within a 14-day period

AND

Downward trajectory of covid-like syndromic cases reported within a 14-day period

## CASES

Downward trajectory of documented cases within a 14-day period

OR

Downward trajectory of positive tests as a percent of total tests within a 14-day period (flat or increasing volume of tests)







## HOSPITALS

Treat all patients without crisis care

AND

Robust testing program in place for at-risk healthcare workers, including emerging antibody testing

State and local officials may need to tailor the application of these criteria to local circumstances (e.g., metropolitan areas that have suffered severe COVID outbreaks, rural and suburban areas where outbreaks have not occurred or have been mild). Additionally, where appropriate, Governors should work on a regional basis to satisfy these criteria and to progress through the phases outlined below.

# Core State Preparedness Responsibilities

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## TESTING & CONTACT TRACING

- ✓ Ability to quickly set up safe and efficient screening and testing sites for symptomatic individuals and trace contacts of COVID+ results
- ✓ Ability to test Syndromic/ILI-indicated persons for COVID and trace contacts of COVID+ results
- ✓ Ensure sentinel surveillance sites are screening for asymptomatic cases and contacts for COVID+ results are traced (sites operate at locations that serve older individuals, lower-income Americans, racial minorities, and Native Americans)

## HEALTHCARE SYSTEM CAPACITY

- ✓ Ability to quickly and independently supply sufficient Personal Protective Equipment and critical medical equipment to handle dramatic surge in need
- ✓ Ability to surge ICU capacity

## PLANS

- ✓ Protect the health and safety of workers in critical industries
- ✓ Protect the health and safety of those living and working in high-risk facilities (e.g., senior care facilities)



- ✓ Advise citizens regarding protocols for social distancing and face coverings
- ✓ Monitor conditions and immediately take steps to limit and mitigate any rebounds or outbreaks by restarting a phase or returning to an earlier phase, depending on severity

# Proposed Phased Approach

BASED ON **UP-TO-DATE DATA** AND READINESS

**MITIGATES** RISK OF RESURGENCE

**PROTECTS** THE MOST VULNERABLE

IMPLEMENTABLE ON **STATEWIDE OR COUNTY-BY-COUNTY** BASIS  
AT GOVERNORS' DISCRETION



**GUIDELINES FOR ALL PHASES**

# Individuals

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Continue to adhere to State and local guidance as well as complementary CDC guidance, particularly with respect to face coverings.

**CONTINUE TO PRACTICE GOOD HYGIENE**

- ✓ Wash your hands with soap and water or use hand sanitizer, especially after touching frequently used items or surfaces.
- ✓ Avoid touching your face.
- ✓ Sneeze or cough into a tissue, or the inside of your elbow.
- ✓ Disinfect frequently used items and surfaces as much as possible.
- ✓ Strongly consider using face coverings while in public, and particularly when using mass transit.

**PEOPLE WHO FEEL SICK SHOULD STAY HOME**



- ✓ Contact and follow the advice of your medical provider.

## **GUIDELINES FOR ALL PHASES**

# **Employers**

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**Develop and implement appropriate policies, in accordance with Federal, State, and local regulations and guidance, and informed by industry best practices, regarding:**

- ✓ Social distancing and protective equipment
- ✓ Temperature checks
- ✓ Sanitation
- ✓ Use and disinfection of common and high-traffic areas
- ✓ Business travel

**Monitor workforce for indicative symptoms. Do not allow symptomatic people to physically return to work until cleared by a medical provider.**

**Develop and implement policies and procedures for workforce contact tracing following employee COVID+ test.**



# Phase One

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*For States and Regions that satisfy the gating criteria*

## INDIVIDUALS

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**ALL VULNERABLE INDIVIDUALS** should continue to shelter in place. Members of households with vulnerable residents should be aware that by returning to work or other environments where distancing is not practical, they could carry the virus back home. Precautions should be taken to isolate from vulnerable residents.

All individuals, **WHEN IN PUBLIC** (e.g., parks, outdoor recreation areas, shopping areas), should maximize physical distance from others. Social settings of more than 10 people, where appropriate distancing may not be practical, should be avoided unless precautionary measures are observed.

Avoid **SOCIALIZING** in groups of more than 10 people in circumstances that do not readily allow for appropriate physical distancing (e.g., receptions, trade shows)







following travel.

## EMPLOYERS

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Continue to **ENCOURAGE TELEWORK**, whenever possible and feasible with business operations.

If possible, **RETURN TO WORK IN PHASES.**

Close **COMMON AREAS** where personnel are likely to congregate and interact, or enforce strict social distancing protocols.

Minimize **NON-ESSENTIAL TRAVEL** and adhere to CDC guidelines regarding isolation following travel.

Strongly consider **SPECIAL ACCOMMODATIONS** for personnel who are members of a **VULNERABLE POPULATION.**

## SPECIFIC TYPES OF EMPLOYERS

---





closed should remain closed.

**VISITS TO SENIOR LIVING FACILITIES AND HOSPITALS** should be prohibited. Those who do interact with residents and patients must adhere to strict protocols regarding hygiene.

**LARGE VENUES** (e.g., sit-down dining, movie theaters, sporting venues, places of worship) can operate under strict physical distancing protocols.

**ELECTIVE SURGERIES** can resume, as clinically appropriate, on an outpatient basis at facilities that adhere to CMS guidelines.

**GYMS** can open if they adhere to strict physical distancing and sanitation protocols.

**BARS** should remain closed.

## Phase Two

---

*For States and Regions with no evidence of a rebound and that satisfy the gating criteria a second time*







**ALL VULNERABLE INDIVIDUALS** should continue to shelter in place. Members of households with vulnerable residents should be aware that by returning to work or other environments where distancing is not practical, they could carry the virus back home. Precautions should be taken to isolate from vulnerable residents.

All individuals, **WHEN IN PUBLIC** (e.g., parks, outdoor recreation areas, shopping areas), should maximize physical distance from others. Social settings of more than 50 people, where appropriate distancing may not be practical, should be avoided unless precautionary measures are observed.

**NON-ESSENTIAL TRAVEL** can resume.

## EMPLOYERS

Continue to **ENCOURAGE TELEWORK**, whenever possible and feasible with business operations.

Close **COMMON AREAS** where personnel are likely to congregate and interact, or enforce moderate social distancing protocols.

Strongly consider **SPECIAL ACCOMMODATIONS** for personnel who are members of a **VULNERABLE POPULATION.**



# SPECIFIC TYPES OF EMPLOYERS

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**SCHOOLS AND ORGANIZED YOUTH ACTIVITIES** (e.g., daycare, camp) can reopen.

**VISITS TO SENIOR CARE FACILITIES AND HOSPITALS** should be prohibited. Those who do interact with residents and patients must adhere to strict protocols regarding hygiene.

**LARGE VENUES** (e.g., sit-down dining, movie theaters, sporting venues, places of worship) can operate under moderate physical distancing protocols.

**ELECTIVE SURGERIES** can resume, as clinically appropriate, on an outpatient and in-patient basis at facilities that adhere to CMS guidelines.

**GYMS** can remain open if they adhere to strict physical distancing and sanitation protocols.

**BARS** may operate with diminished standing-room occupancy, where applicable and appropriate.

## Phase Three

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# INDIVIDUALS

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**VULNERABLE INDIVIDUALS** can resume public interactions, but should practice physical distancing, minimizing exposure to social settings where distancing may not be practical, unless precautionary measures are observed.

**LOW-RISK POPULATIONS** should consider minimizing time spent in crowded environments.

# EMPLOYERS

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Resume **UNRESTRICTED STAFFING** of worksites.

# SPECIFIC TYPES OF EMPLOYERS

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Residents and patients must be diligent regarding hygiene.

**LARGE VENUES** (e.g., sit-down dining, movie theaters, sporting venues, places of worship) can operate under limited physical distancing protocols.

**GYMS** can remain open if they adhere to standard sanitation protocols.

**BARS** may operate with increased standing room occupancy, where applicable.

## APPENDIX

# Vulnerable Individuals

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1. Elderly individuals.
2. Individuals with serious underlying health conditions, including high blood pressure, chronic lung disease, diabetes, obesity, asthma, and those whose immune system is compromised such as by chemotherapy for cancer and other conditions requiring such therapy.

# **EXHIBIT O**



JOHNS HOPKINS

BLOOMBERG SCHOOL  
*of* PUBLIC HEALTH

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Center for Health Security

# **Public Health Principles for a Phased Reopening During COVID-19: Guidance for Governors**

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## EXECUTIVE SUMMARY

As the COVID-19 pandemic continues to progress, most jurisdictions have implemented physical distancing measures community-wide. As chains of transmission begin to decline, along with new COVID-19 cases, there will need to be decisions at the state level about how to transition out of strict physical distancing and into a phased reopening.

This document provides an assessment of the risk of SARS-CoV-2 transmission in a variety of organizations and settings that have been closed. We outline steps to reduce potential transmission during the reopening of these organizations and settings, building on the proposed phased approach from the [National Coronavirus Response: A Road Map to Reopening](#). Reopening businesses and other sectors represents one of many steps that will need to be taken to revitalize communities recovering from the pandemic, restore economic activity, and mitigate the unintended public health impact of the distancing measures that were necessary to confront the epidemic of COVID-19. A discussion of larger community-wide considerations for holistically enhancing recovery can be found in the [Appendix](#).

State-level decision makers will need to make choices based on the individual situations experienced in their states, risk levels, and resource assessments. They should make these decisions in consultation with community stakeholder groups. Different parts of the country face varying levels of risk and have different resources available to confront these uncertainties. These decisions will need to be accompanied by clear and transparent communication to gain community engagement around the greatly anticipated reopenings. Individuals, businesses, and communities have a role to play in taking actions to protect themselves and those around them during this time. In this report, we offer a framework for considering risks regarding the likelihood of transmission and potential consequences of those transmissions. This is accompanied by proposed assessments for nonessential businesses, schools and childcare facilities, outdoor spaces, community gathering spaces, transportation, mass gatherings, and interpersonal gatherings. This is followed by proposed action steps for state-level decision makers on how to use risk assessment findings.



## INTRODUCTION

Over the past few weeks, most states have implemented strict physical distancing measures in an extraordinary effort to reduce transmission of SARS-CoV-2. These measures are working, and there are now signs of improvement in some communities where the numbers of new cases reported daily have begun to decline. Although no states are ready to lift physical distancing measures, there is immense pressure to get back to business as usual, and these developments have prompted questions around how to reopen in individual states when it becomes safer to do so.

It will be essential for each state to make informed decisions about how to carefully move from a strict physical distancing phase (Phase I) to a staged reopening phase (Phase II) and to communicate that rationale clearly. As important, governors should set appropriate expectations around the risks involved in reopening businesses and other sectors. To be clear, reopening will increase the risk of COVID-19 spread. Therefore, it is important for leaders to know that getting things open again will increase the risks of individuals contracting COVID-19, and there is no way to completely guard against that.

The majority of models have shown that, in the absence of social distancing, COVID-19 has a reproduction rate of between 2 and 3 (though some models have shown it to be higher). This means that every person with the disease will spread it to 2 to 3 others, on average. To end an epidemic, control measures need to drive that number as far below 1 as possible. A vaccine can do that if and when it becomes available. But in the meantime, social distancing measures, combined with case-based interventions, are the key tools to maintaining the reproduction rate below 1. If the reproduction rate rises above 1, this means that epidemic growth has resumed. If that occurs, it may be necessary to re-initiate large-scale physical distancing. It is important to recognize that states will need to actively manage COVID-19 cases with great vigilance for the entire duration of the pandemic until a safe and effective vaccine is widely available.

The purpose of this document is to assess the risk of SARS-CoV-2 transmission in businesses, schools, and other community spaces considered nonessential by state orders, in order to identify candidates for reopening. This evaluation should be done on the basis of risk for viral transmission in different settings and the ability to implement mitigation measures to reduce risks to employees and customers. Reopening businesses is only one step among many that will need to be considered on the path to recovering from this pandemic. This document is limited to issues of reopening and does not address other important matters related to recovery from this pandemic around the country. At the same time, reopening decisions prompt the larger question of how communities can plan better for other, future decisions ([see Appendix](#)).

## PHASES OF REOPENING

This report builds on the epidemic phases described in the [National Coronavirus Response: A Road Map to Reopening](#), published last month. That report outlined 4 phases and identified capacities required in each phase, as well as the triggers needed to progress from one phase to the next.

Phase I consists of community-level physical distancing measures to “slow the spread.” In addition to asking community members to remain at home, state leaders should also use Phase I to increase access to diagnostic testing and increase public health and medical system capacities. These capacities are needed to safely identify and treat all COVID-19 patients and to prepare for a shift from community mitigation (what we are doing now) to case-based interventions (when we try to control spread by focusing testing and resources on individuals with disease who may be infectious and their close contacts).

A shift to Phase II could be considered when the following 4 criteria have been met: (1) the number of new cases has declined for at least 14 days; (2) rapid diagnostic testing capacity is sufficient to test, at minimum, all people with COVID-19 symptoms, as well as close contacts and those in essential roles; (3) the healthcare system is able to safely care for all patients, including having appropriate personal protective equipment for healthcare workers; and (4) there is sufficient public health capacity to conduct [contact tracing](#) for all new cases and their close contacts, as described in our [National Plan to Enable Comprehensive COVID-19 Case Finding and Contact Tracing in the US](#).

During Phase II, businesses and sectors can begin a process of reopening, with modifications. Rather than asking everyone to stay home, states can limit SARS-CoV-2 transmission through a combination of physical distancing and case-based interventions (testing, contact tracing, and self-isolation for those with active disease or individuals who may have contracted SARS-CoV-2 and are awaiting test results), which in most places may require an expanded workforce and resources.

Phase III looks ahead to a time when an effective therapeutic or vaccine is available, and Phase IV identifies some policy priorities for increasing preparedness for the next public health threat. Details of those phases can be found in that [full report](#).

## CONSIDERATIONS FOR STATE-LEVEL DECISION MAKING

There is no one-size-fits-all approach to reopening. Governors will need to assess the epidemiologic situation in consultation with public health and healthcare leaders, along with mayors, local community leaders, and health departments. These discussions should include considerations of available capacities (eg, in the areas of diagnostic testing, personal protective equipment, healthcare and medical resources), careful risk assessments, and a weighing of the risks and benefits sector by sector. Governors will need to decide whether to implement the same reopening policies across the state or if there will be local decisions taken at the county or city levels. They will also need to make plans for the potential reintroduction of physical distancing measures should there be an uptick in cases.

Epidemiologic risk for increasing virus transmission is only one of many factors that should guide decision making at the state level. This document is not intended to be a comprehensive representation of necessary steps for transitioning into new phases of the pandemic. Decisions pertaining to reopening of different sectors can be particularly high consequence, and governors should ideally consult with a multidisciplinary group of stakeholders who have an understanding of the circumstances facing communities and the ability to identify downstream impacts of decisions around reopening sectors in local communities. These stakeholders could include, for example, leaders from chambers of commerce or small business bureaus, faith-based communities, representatives from minority and underserved communities, and organizations that regularly work with vulnerable populations. These diverse perspectives will highlight the practicalities of what reopening will mean for their communities and will uncover opportunities for state and local leaders to provide additional support to those communities during the transition to Phase II, where gradual reopening begins.

Consequential decisions around reopening have the potential to be immensely beneficial but also carry the possibility for unintentional harm. Decisions driven by risk assessments will support protection of the health and safety of the public. The addition of consultations with multidisciplinary stakeholder groups ensures that many voices are heard and that additional programmatic and financial resources can be directed to places where they are most needed.

## COMMUNICATION AROUND REOPENING

The most critical component in communication around reopening is to ensure community engagement in both mitigation measures taken to prevent the spread of disease and plans for reopening. This requires substantial effort to coordinate with community and business stakeholders. Communication must address concerns from those stakeholders and should be conducted with an interest in 2-way communication and input from a wide range of voices. Without community engagement as a goal of communication efforts, there is a risk of distrust, spread of misinformation, and lack of compliance. Different states and local communities may weigh differently the competing considerations as to how they stage their reopening, based on local needs, resources, social issues, and risk factors. This underscores the importance of leaving these decisions to state and local officials, and for state and local officials to involve interdisciplinary stakeholder groups in reopening discussions.

There is great anticipation of the possibility of returning to a sense of normalcy and routine activities; therefore, framing and communication of goals and considerations around reopening will be of key importance. The position from which decisions are framed will function to generate support from members of the public. Communities are feeling the costs of lost livelihoods, interrupted schooling for children, and grief from loss of loved ones to the virus. Measured strategies for explaining the factors involved with reopening decision making will be needed.

Communication before and during the period of phased reopening should be transparent about the factors that are being used to make decisions, the decision-making process, and those stakeholders who were part of the decision-making process. Leaders should acknowledge uncertainty where it exists and highlight what measures are being taken to reduce that uncertainty. They should also foreshadow what information may lead to a change in recommendations. A nuanced understanding of the challenges faced by those affected by decisions about reopening and empathy toward these challenges is also critical to ensure members of the community feel their issues have been given consideration.

Communication during reopening should also ensure that individuals know what actions they should take to protect themselves from COVID-19 and what should reasonably be expected from businesses and other community members. This requires a good understanding of their risks and the mitigation measures being put in place by businesses. State and local authorities should regularly update members of the public about what they are doing to keep people safe, changing circumstances, and changes in requirements for businesses.



## THE IMPORTANCE OF RISK ASSESSMENT

Risk assessments should be integrated into the decisions around reopening. Risk assessments are formalized processes to evaluate risks and hazards. Assessing the risks of easing social distancing measures and restarting parts of the economy requires a measurement of the **likelihood** of increased transmission and the **consequences** of that transmission. Likelihood in this case means the probability that reopening a business, school, or other organization where people congregate will cause significantly increased transmission. Consequence is the impact that increased transmission could have on individuals or communities if a business, school, or other organization reopens or eases social distancing measures.

In addition, there are mitigation measures that can decrease both the likelihood and consequences of transmission. Although enumeration of those mitigation measures for every type of business is beyond the scope of this report, we briefly describe principles of risk reduction through the hierarchy of controls later in this section. Where possible, we have also linked to a selection of existing guidance throughout the document.

The risks of increased transmission of COVID-19 are balanced against risks to the health and well-being of the public, society, and the economy from measures taken to reduce the spread of the disease. The likelihood and consequence of harms across a range of factors, including but not limited to increased disease transmission, other health impacts, threats to livelihoods, and consequences to regional economies, should be considered together.

### Likelihood

There are still many gaps in scientific understanding about the transmission dynamics of SARS-CoV-2. But initial published data suggest that transmission of SARS-CoV-2 occurs primarily through prolonged, close contact. In studies that have monitored people with a known exposure to a confirmed case, household members, those who report frequent contact, and people who have traveled together or shared a meal are found to be at [highest risk](#) of infection. Other studies that attempt to reconstruct transmission chains among confirmed cases have also found that prolonged close contact is the source of most new [infections](#). Some special settings have also been identified. [Superspreading](#) events have been linked to religious services, choir practice, and large family gatherings, among others. Congregate settings like [cruise ships](#), [institutions of incarceration](#), and [long-term care facilities](#) have also been the source of large outbreaks. These findings suggest that settings where close contact is minimal will be lower risk than settings with prolonged close contact.

However, it is important to note that low risk does not mean no risk. Any place where people come together or have contact with shared surfaces could in theory be a transmission opportunity. Exact quantification of the risks of various activities is not possible, so we present here qualitative assessments using expert elicitation and published data as of the date of this report.

## Consequences

The primary consequence is the risk of increased transmission of SARS-CoV-2, which could precipitate community spread. Businesses or activities that bring people together in densely populated spaces, those that have employees or customers that travel further and disperse more widely, and those that either employ or have a large number of customers with COVID-19 risk factors, like underlying medical conditions, may create greater personal and societal consequences if they ignite a chain of transmission by reopening.

## Mitigation

Mitigation measures are those actions to reduce the negative impacts of situations carrying increased risk through minimizing the severity or scope of impact. The [Centers for Disease Control and Prevention](#) has published extensive guidance on implementation of mitigation measures across multiple levels of society, including individuals, schools, workplaces, faith-based organizations, and congregate living spaces.

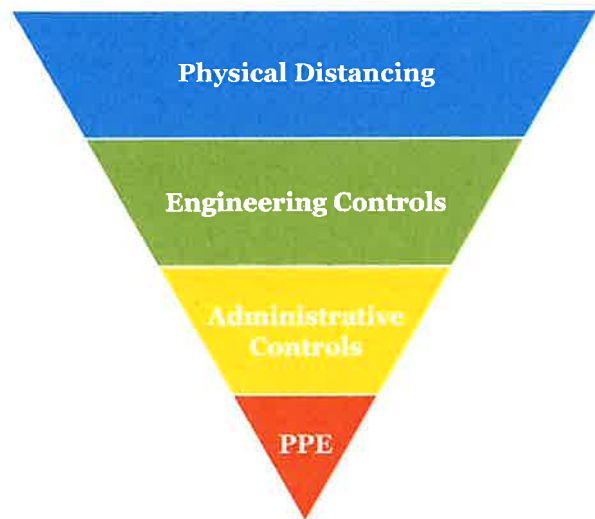
Even if a business or organization is deemed to be high risk because of likelihood or consequences of increased transmission, it is possible to reduce that risk with targeted mitigation steps. However, it should be noted that no mitigation step will reduce the risk completely, and even with multiple mitigation steps in place, some businesses or organizations may be at too high a risk to open until the pandemic is over.

[Hierarchy of controls](#) is a concept used by the National Institute for Occupational Safety and Health (NIOSH) as a framework for identifying controls for potentially harmful workplace hazards. These principles are useful for assessing the effectiveness of controls for COVID-19 and for understanding the range of impacts those measures can have on decreasing the likelihood of transmission. The NIOSH hierarchy of controls structure is adapted below for COVID-19 purposes.

## MODIFIED HIERARCHY OF CONTROLS

Using the modified hierarchy of controls, COVID-19 mitigation measures can look like:

- Physical Distancing — wherever possible having people work or access the business from home; this should include restructuring responsibilities to minimize the numbers of workers that need to be physically present.
- Engineering controls — creating physical barriers between people
- Administrative controls — redistributing responsibilities to reduce contact between individuals, using technology to facilitate communication
- PPE — having people wear nonmedical cloth masks



Regardless of business specific considerations, there are measures that can be taken to mitigate the risk of infection to protect individuals:

- Use of nonmedical cloth masks
- Incorporating engineering controls such as physical barriers where possible
- Reconfiguring space to enable people to be located apart (ideally, at least 6 feet)
- Supporting and enabling employees to remain at home if they are unwell or have been in close contact with someone who is sick

## ASSESSING RISK FOR ORGANIZATIONS AND SPECIFIC SETTINGS

This section provides high-level risk assessments for the following 7 categories: (1) “nonessential” businesses,\* (2) schools and childcare facilities, (3) outdoor spaces, (4) community gathering spaces, (5) transportation, (6) mass gatherings, and (7) interpersonal gatherings. Each of these categories was assessed along 3 dimensions: contact intensity, number of contacts, and the degree to which the activities are considered to be modifiable (through mitigation measures such as enabling people to remain 6 feet apart) to reduce risk. We note that these assessments are qualitative and

\* “Nonessential businesses” is a term being used by states to distinguish between businesses that are allowed to remain open because they are critical to societal functioning and those that have been asked to temporarily close.

based on expert judgment. Currently, there are not enough detailed data available to enable quantitative risk stratification. Unfortunately, states will need to make decisions about re-initiating some business activities before there are validated data to know the levels of risk we are assuming in reducing social distancing in various settings.

For purposes of this document, contact intensity was rated as either low, medium, or high. We define contact intensity as a function of contact type (ranging from close to distant) and duration (ranging from brief to prolonged). Low contact intensity activities are interactions that are brief and fairly distant, like walking past someone in a shop. High contact intensity activities involve prolonged close contact, like sharing a dormitory. Medium contact intensity activities fall between these 2 poles, like sharing a meal in seats that are separated by several feet. Of course, inside a business environment, there may be physical spaces and/or activities that range from low to medium to high, and that should be taken into account during the decision-making process. Risk to employees who may have different exposures should also be considered.<sup>†</sup>

We also assess the number of contacts as either low, medium, or high. We define the number of contacts as the approximate number of people in the setting at the same time, on average. A higher number of contacts is presumed to be riskier.

Modification potential (the degree to which mitigation measures can buy down those risks) is a qualitative assessment of the degree to which activities can be modified to reduce risk. The engineering controls framework was used to inform the risk assessments; sectors and businesses that could effectively incorporate physical distancing and engineering controls were considered to have a higher modification potential than those relying on administrative controls or personal protective equipment. Links to a selection of existing guidance on what those mitigation steps could include are also provided.

These risk assessments are primarily oriented around customers, attendees, and members of the public, who would make up the majority of people interacting with a business or other noted setting in this report. However, we acknowledge that risk to employees will likely be greater in many of these organizations and settings, as their duration of exposure and number of interactions will be higher. Special precautions should be taken to protect employees, potentially including restructuring duties to minimize person-to-person contact, changing work flows or operations to diminish risk, providing personal protective equipment for employees (if sufficient supplies make it

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<sup>†</sup> This text was added on April 20, 2020, after publication, to clarify the population under consideration for the risk assessments.



feasible to do so outside the healthcare system), and providing enhanced sanitation and hygiene supplies (eg, disinfecting products and alcohol-based hand sanitizer).<sup>‡</sup>

Included in the next section are high-level risk assessments for various sectors. They are not listed in any particular order, and the list is not fully comprehensive. Governors and their teams may want to modify these risk assessments according to local considerations. In the final section, there are proposed principles for incorporating these determinations into policy decisions. Those, too, should be modified to reflect local context.

## “Nonessential” Businesses

Category	Contact Intensity	Number of Contacts	Modification Potential	Mitigation Resources
Restaurants	Medium	Medium	Medium	<a href="#">National Restaurant Association</a> , <a href="#">FDA</a>
Bars	High	High	Medium	<a href="#">FDA</a>
Salon, spas, and other personal care industries	Medium/high	Low	Medium	<a href="#">TN Cosmetology &amp; Barber Guidelines</a>
Retailers	Low	Medium	Medium	<a href="#">NY state guidance</a> , <a href="#">OSHA</a>
Shopping malls	Low	Medium	Medium	<a href="#">NC state guidance</a> , <a href="#">OSHA</a>
Gyms/fitness studios	Medium	Medium	Medium	<a href="#">CDC Small Business guidance</a>
Theaters, museums, and other indoor leisure spaces	Medium	High	Medium	<a href="#">CA entertainment venue guidance</a> , <a href="#">Americans for the Arts</a> , <a href="#">American Alliance of Museums</a>
Outdoor large venues (concerts, sports)	High	High	Medium	<a href="#">CDC Mass Gathering guidance</a>
Indoor large venues (concerts, sports)	High	High	Low	<a href="#">CDC Mass Gathering guidance</a>

<sup>‡</sup> This text was added on April 20, 2020, after publication, to clarify the population under consideration for the risk assessments.

## Schools and Childcare Facilities

Schools and childcare facilities play many important roles in communities. Schools provide necessary education to prepare children for adulthood. Online education from K-12 is not a substitute for in-person learning and socialization in a school setting. Long-term shutdowns will likely lead to education gaps and other consequences for many children. In addition to the critical function of educating children, schools and childcare facilities also enable parents to work outside the home. They also serve as key resources in that they offer meals, safe environments, and other services, particularly to vulnerable families.

Unlike businesses and sectors that primarily serve adults, the consequences of increased transmission are potentially different for settings and activities that primarily serve kids. Children are less vulnerable to severe illness from COVID-19 than adults. A recent [report](#) found that fewer than 2% of cases of COVID-19 in the United States were diagnosed in children, and of those (for whom data were available), between 5.7% and 20% required hospitalization. Most children requiring hospitalization were under 1 year of age. These considerations favor the reopening of schools and childcare facilities.

However, it is still not known what role children play in the transmission of SARS-CoV-2. For other viral illnesses, like influenza, children are drivers of transmission. Early and prolonged school closures have been shown to reduce overall community transmission of influenza. There has been some evidence that COVID-19 produces more [mild illness](#) in children and therefore it may be less likely to be detected than in adults. However, without more conclusive evidence, it is difficult to quantify the role of [children](#) in propagating [COVID-19](#) to other students, their family members, teachers, and school staff. Furthermore, schools and childcare facilities are staffed by adults, some of whom may be at risk of severe illness. These considerations weigh against reopening.

Some students are likely to have underlying medical conditions that will prevent them from returning to school safely. Other students who are healthy without underlying conditions may have parents who believe it is unsafe for their children to return to school, either because of concerns about the health of the student or the possibility of bringing infection back to the household and infecting adults. If schools are reopened, decisions will need to be made regarding whether tele-education will need to be provided to those students who do not come back to school, alongside in-person education being provided in school.

In order to better understand the role of children in transmission, studies reconstructing transmission chains are needed, as are studies seeking to correlate viral load to infectiousness. Governors should work with their state public health departments to make this research a priority.

<b>Category</b>	<b>Contact Intensity</b>	<b>Number of Contacts</b>	<b>Modification Potential</b>	<b>Mitigation Resources</b>
Childcare facilities (daycare, preschools)	High	Medium/High	Low/Medium	<a href="#">CDC</a> , <a href="#">WHO</a>
Schools (elementary, middle, and high)	High	High	Low	<a href="#">CDC</a> , <a href="#">WHO</a>
Contact school sports	High	Medium/High	Low	<a href="#">NCAA</a> , <a href="#">CDC</a>
Noncontact school sports	Low	Medium	High	<a href="#">NCAA</a> , <a href="#">CDC</a>
Summer camps	High	High	Low	<a href="#">American Camp Association</a> , <a href="#">Association of Camp Nursing</a>
Institutions of higher education	High	High	High	<a href="#">CDC</a> , <a href="#">American College Health Association</a>
Residence halls and other overnight programs	High	Medium	Low	<a href="#">NYC guidance for congregate settings and residential buildings</a>

## Outdoor Spaces

COVID-19 transmission is more likely in [enclosed spaces](#) than outdoor spaces, based on current epidemiologic understanding. Indoor spaces may have poor ventilation, which may lead to viral particles persisting in the air or recirculating longer than they would outdoors or in enclosed spaces with good ventilation. People also tend to be closer together indoors, and there are more high-touch surfaces that can serve as fomites of disease transmission. Therefore, there is lower risk of disease transmission [outdoors than indoors](#), especially if distance is maintained between individuals while outdoors.

Category	Contact Intensity	Number of Contacts	Modification Potential	Mitigation Resources
Parks, walking paths/trails, dog parks	Low	Low	Low	<a href="#">Guidance from MD</a> , <a href="#">Guidance from RI</a> , <a href="#">Guidance from Los Angeles, CA</a>
Athletic fields and other outdoor congregate settings	Medium	Medium	Low	<a href="#">Guidance from the National Mall Trust in Washington, DC</a>
Pools	Medium	Low	High	<a href="#">CDC</a> , <a href="#">Guidance from WA</a>
Beaches, piers	Low	High	Medium	<a href="#">Guidance from Orange Beach, AL</a> , <a href="#">Guidance from RI</a>
Playgrounds, skateparks, and other outdoor recreation spaces	Medium	Medium	Medium	<a href="#">Guidance from MD</a> , <a href="#">Guidance from Santa Cruz, CA</a>

## Community Gathering Spaces

Community spaces provide important societal benefits and can range from civic centers to places of worship. The risk in these spaces is highly dependent on the size of the population they serve and the size of the space.

Category	Contact Intensity	Number of Contacts	Modification Potential	Mitigation Resources
Places of worship	High	High	Medium	<a href="#">CDC, FAQ for Faith Leaders from NYC, Guidance from NY state, Risk Assessment from WHO, Decision Tree from WHO</a>
Libraries <sup>§</sup>	Low	Low	Medium	<a href="#">CDC, Guidance from Baltimore County Library</a>
Community centers	Medium	High	Medium	<a href="#">CDC, Guidance from PA, Guidance from Riverside University Health System, Guidance from IL</a>

## Transportation

Transit is very important for keeping communities functioning, and limiting mass transit availability disproportionately affects [under-resourced populations](#). Transit should be opened with careful mitigation measures, given that public transportation is a fairly high-risk setting.

Category	Contact Intensity	Number of Contacts	Modification Potential	Mitigation Resources
Buses	High	High	Medium	<a href="#">CDC, NY state guidance for public transportation</a>
Metros/rail	High	High	Medium	<a href="#">CDC Transit Stations, CDC Transit Workers</a>
Airplanes	High	High	Medium	CDC guidance: <a href="#">baggage claim/ cargo, airport staff, staff interacting with passengers, aircraft technicians</a>
Rideshare/taxis	High	Low	Low	<a href="#">Washington State Guidance for Rideshare/Taxis, Toronto Guidance</a>

§ Libraries that incorporate social activities or community gatherings into their services should refer to the “community centers” category.

## Mass Gatherings

According to the [World Health Organization](#), an event is defined as a mass gathering “if the number of people it brings together is so large that it has the potential to strain the planning and response resources of the health system in the community where it takes place.” The size of an event that can be considered a mass gathering may depend on the national and local healthcare capacity and the context. For example, if other strains are placed on the health system at the same time, such as an ongoing outbreak, the threshold of the health system would be considerably lower, and, therefore, the size of the event could be considerably smaller and still be defined as a mass gathering.

[Mass gatherings](#) have often been the source of infectious disease outbreaks that spread globally or have contributed to the international spread of disease. While a number of public health measures can be implemented in the planning and operational phases of a mass gathering to significantly reduce the risk of disease spread, during the current pandemic, the high risk for COVID-19 transmission that mass gatherings pose should be recognized. This [high risk of transmission](#) is due to a number of factors, including the high density of individuals often in attendance in confined spaces during mass gatherings, the possibility of further domestic or international spread, and the new formation of clusters as people often travel significant distances to attend a mass gathering.

Mass gathering organizers must comply with national and local guidelines and restrictions. At the current stage in the pandemic, while the White House Coronavirus Task Force has recommended banning gatherings of more than 10 people, [Individual states](#) have varied in the size of gatherings they are banning. As these restrictions lift and organizers begin hosting large events, they should conduct a COVID-19-specific risk assessment to determine the level of risk of transmission the event may pose and identify areas for modification that could reduce or mitigate these risks. The [WHO](#), among others, provides risk assessment and mitigation tools for mass gathering organizers, along with several technical guidance documents.



<b>Category</b>	<b>Contact Intensity</b>	<b>Number of Contacts</b>	<b>Modification Potential</b>	<b>Mitigation Resources</b>
Sports related mass gatherings: games, tournaments, championships	High	High	Medium	<a href="#">WHO guidance for mass gatherings-Sports Addendum</a> , <a href="#">WHO mass gatherings risk assessment - sports addendum</a> , <a href="#">WHO Interim guidance for all mass gatherings</a> , <a href="#">WHO generic mass gathering decision tree</a> , <a href="#">CDC guidance</a>
Sports related mass gatherings: training	High (sport dependent)	Medium	Medium	<a href="#">WHO Interim guidance for mass gatherings-Sports Addendum</a> , <a href="#">WHO generic mass gatherings risk assessment - sports addendum</a> , <a href="#">WHO Interim guidance for all mass gatherings</a> , <a href="#">WHO generic mass gathering decision tree</a> , <a href="#">CDC guidance</a>
Religious related mass gatherings: large celebrations, festivals, pilgrimages	High	High	Medium	<a href="#">CDC, FAQ for Faith Leaders from NYC</a> , <a href="#">Guidance from NY state</a> , <a href="#">Risk Assessment from WHO</a> , <a href="#">Decision Tree from WHO</a> , <a href="#">WHO considerations for religious mass gatherings</a>
Business-related mass gatherings: trade shows, conferences, conventions, workshops, retreats	High	High	High	<a href="#">WHO Interim guidance for mass gatherings</a> , <a href="#">WHO generic mass gatherings risk assessment</a> , <a href="#">WHO generic mass gathering decision tree</a> , <a href="#">CDC guidance</a>
Entertainment-related mass gatherings: large concerts, festivals, carnivals, conventions, shows	High	High	Medium	<a href="#">WHO Interim guidance for mass gatherings</a> , <a href="#">WHO generic mass gatherings risk assessment</a> , <a href="#">WHO generic mass gathering decision tree</a> , <a href="#">CDC guidance</a>
Politically related mass gatherings: election rallies, polling centers, parades, speeches/addresses	High	High	Medium	<a href="#">WHO Interim guidance for mass gatherings</a> , <a href="#">WHO generic mass gatherings risk assessment</a> , <a href="#">WHO generic mass gathering decision tree</a> , <a href="#">CDC guidance</a>

## Interpersonal Gatherings

Interpersonal gatherings among family and friends, including events such as weddings, birthday parties, and funerals, hold great personal and societal value. Attending these events, however, also holds the risk of disease transmission. An epidemiologic assessment of a large, multifamily cluster of COVID-19 cases found that transmission of the virus likely resulted from attendance at a funeral and birthday party. Factors including interacting closely together in enclosed spaces, hugging or kissing, and sharing food or utensils are all practices that are often common at interpersonal gatherings and can increase the risk of SARS-CoV-2 transmission. Certain cultural practices in funerals that promote physical contact with a deceased individual, when that deceased person was infected with SARS-CoV-2, should also be avoided. Careful consideration should be given to ensure that mitigation measures are implemented to reduce the risk of spread, where possible, while still respecting the cultural value of important events. In particular, the [CDC recommends](#) that organizers should consider the number and density of attendees, the prevalence of people who could be at high risk of severe illness due to underlying factors, the level of local community disease transmission, and the ability to reduce the number of attendees where possible.

Category	Contact Intensity	Number of Contacts	Modification Potential	Mitigation Resources
Small social gatherings (eg, birthday parties)	High	Medium	High	<a href="#">CDC guidance</a>
Large social gatherings (weddings, funerals with many attendees)	High	High	High	<a href="#">CDC guidance</a> , <a href="#">National Funeral Directors Association guidance</a>



## **PROPOSED PRINCIPLES FOR ACTION**

States should consider initiating the reopening process when (1) the number of new cases has declined for at least 14 days; (2) rapid diagnostic testing capacity is sufficient to test, at minimum, all people with COVID-19 symptoms, including mild cases, as well as close contacts and those in essential roles; (3) the healthcare system is able to safely care for all patients, including providing appropriate personal protective equipment for healthcare workers; and (4) there is sufficient public health capacity to conduct contact tracing for all new cases and their close contacts.

Governors should involve stakeholder groups in the decision-making process in order to better understand the needs, capacities, and challenges of different communities.

Even when reopening actions are under way, those who can continue to telework should continue to do so. This will reduce social interactions overall and will reduce the risk of infection in workplaces where telework is feasible. Businesses should actively support social distancing by implementing telework policies and adopting flexible sick leave policies that encourage workers to stay home when sick or when known exposure to COVID-19 has occurred.

All individuals going back to work should wear nonmedical cloth masks. This will reduce the chance of those people transmitting the virus to their co-workers.

Governors should consider reopening in phases separated by 2 to 3 weeks. After each phase of reopenings, state public health officials should review the numbers of new COVID-19 daily case counts, hospitalizations, and deaths carefully, along with other syndromic surveillance tools. The results of reopening decisions will take 2 to 3 weeks to be reflected in those numbers. If case counts, hospitalizations, and deaths go up in that time, further actions in reopening should be paused, and steps should be taken to get control of the rising numbers. Possible actions might include changes to case finding and contact tracing, taking specific measures to respond to identified new outbreaks, and, as needed, re-imposition of some or all of the previously relaxed social distancing interventions.

Organizations and activities that are outdoors are less likely to result in transmission than are indoor activities and seem to carry the lowest risk, assuming personal mitigation measures (maintaining 6 feet of separation, wearing nonmedical cloth masks in public) are all maintained.

Businesses and sectors that have low contact intensity, low numbers of contacts, and high ability to modify operations in ways that diminish the potential to spread will be safer to reopen sooner and more fully than those with high contact intensity, high contacts, and the inability to modify or mitigate operations.

While public transportation is normally high contact intensity and high numbers of contacts, modifications should be pursued to make them safer. More spacing between people, with lower ridership, would reduce risks. Without public transportation, many people will not be able to get to work at all.

Schools and childcare facilities pose special challenges. They are very important for the education of children, and many parents will have difficulty going back to work if schools remain out of session. There are many scientific uncertainties that complicate this decision. Children infected with COVID-19 generally experience more mild symptoms than adults, but the rate at which they spread the disease to other children, teachers, school staff, and family members is uncertain. If schools are reopened, most kids will be at low risk of severe infection themselves. However, some kids will have underlying conditions that increase their risks, and some teachers and staff will be at high risk. Their parents may also be at high risk if children do get infected and transmit the disease at home. Some parents may elect to not allow their children back in school, so schools that reopen will need to decide whether to also offer tele-education. States will need their own processes of decision making and community engagement regarding how to make decisions about school reopening on the basis of these uncertainties.

## CONCLUSIONS

This document summarizes considerations, risks, and opportunities for governors to weigh when deciding when and how to slowly reopen. These decisions should be made carefully and thoughtfully to limit the risk of disease resurgence. Reopening of businesses is only one step among many that will need to be considered on the path to recovering from this pandemic.

## APPENDIX

### Planning to Restore Community Vitality in the Pandemic Context: Leadership Considerations and Actions

When can businesses, schools, recreational facilities, and places of worship reopen for normal operations? This is one in a series of major decisions that will reflect and shape how communities adapt to the protracted pandemic and its cascading social and economic effects. As governors urgently consider the proper public health conditions for an economic restart, they can also begin to prepare for a more comprehensive process of community revitalization that will stretch over near, intermediate, and long terms. The demands for social service, mental health, and workforce development needs, for instance, will stretch farther into the future than society's requirements for physical distancing. It is, thus, prudent for states' top executives to be proactive and plan for the future well-being of their residents. Below are some principles and practices that governors can adopt to that end:

**Draw lessons from analogous complex threats, characterized by uncertainty, that require measured decision making:** A pandemic is not the only scenario in which economic well-being and public health are seemingly at odds and potential tradeoffs require careful weighing. In the case of widespread contamination from radioactive materials, for instance, the standard is not a prescribed numeric clean-up guideline but, rather, a flexible, iterative, and multifaceted decision-making process that involves stakeholders such as citizens' groups and businesses in developing an exit strategy. The individuals most affected by the decision have input into those societal aims governing the clean-up.

**Recognize that the desire to get back to normal as quickly as possible is a common reaction in the catastrophic context, and it is an impulse worth restraining:** Governors, mayors, and county executives governing during disasters know the tensions in wanting a swift return to business-as-usual versus aspiring toward greater community safety, equity, and quality of life. The pandemic—which has revealed deficiencies, for instance, in healthcare delivery, the social safety net, and workplace leave policies—represents an opportunity for visionary leadership, goal setting, and transformation. Pandemic recovery planning can readily learn from best practices in disaster recovery planning.

**Initiate a planning process for community revitalization (aka pandemic recovery) that runs in parallel with the public health response:** The COVID-19 pandemic is an organic event marked by uncertainty; still, it is certain that the health crisis will eventually end. At the same time, the need to adapt to sudden or long-term shifts in conditions

will not end. And yet, despite its oversized effects, this health crisis is not, in the end, exceptional. We can benefit from extant, forward-looking, data-driven, coordinating bodies that already enable disaster recovery and other long-range planning efforts (eg, economic development, community development). A revitalization management organization can integrate with emergency operations center activities and run concurrently to maximize community benefits from short- and long-term recovery duties.

Consult diverse stakeholders and communicate broadly, to ensure that state residents can partake in decision making that is relevant to community vitality: Rebuilding a community over the long term after a complex calamity devolves to thousands of people navigating recovery as nonprofessionals; it is a collective action problem. An organization to make collective action possible knits together key leadership roles and collaboration: an authorizing and approving body, plan leadership via a lead planning agency or official, and a planning task force. A revitalization plan that reflects shared values can be enabled by specialists in planning, communication, and information and data management and by public and stakeholder involvement.



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