

**2017-18 AGREEMENT TO HOST
PUBLIC ALLIES AMERICORPS MEMBER(S)
(PUBLIC ALLIES PAYROLL VERSION)**

Public Allies, Inc. (North Carolina Site Operated by The Institute)

And

Durham County – My Brother's Keeper Initiative

Agreement Start Date: May 8, 2018

Federal Resource Awarded to Partner Organization: 6 AmeriCorps Members
AmeriCorps Member(s) (Subject to: CFDA #: 94.006)

This Award / Amendment consists of these pages 1 – 11, Appendices A, and B and
Schedule of Exhibits

The following exhibits are attached to this Agreement and are incorporated by this
reference.

Exhibit A, entitled “Public Allies Policies and Procedures for Direct
Supervisors of Public Allies AmeriCorps Members”

Exhibit B, entitled “Public Allies 2017-18 Notice of Grant Award”

This agreement ("Agreement") is made and entered into as of the 8th of May, 2018, by and between the following entities (sometimes referred to as "Party" or "Parties"): The Institute of Minority Economic Development ("Public Allies North Carolina"), a nonprofit organization contracted by Public Allies, Inc. to operate the Public Allies North Carolina site, and incorporated under the laws of North Carolina with its principal place of business at 114 W. Parrish Street, 6th Floor, Durham, NC 27703; and DURHAM COUNTY ("Partner Organization"), a political subdivision of the State of North Carolina 200 E. Main Street Durham, North Carolina, 27701.

The terms of this agreement apply in relation to any and all Public Allies Members placed at DURHAM COUNTY, beginning on the date above and terminating subject to Section V(A).

WITNESSETH

WHEREAS, Public Allies, Inc. has established the Public Allies Apprenticeship Program ("Program"), an AmeriCorps program funded by the Corporation for National and Community Service (CNCS) and subject to the provisions and regulations of AmeriCorps (see **Appendix A**), the purpose of which is to recruit and select young people (collectively, the "Allies"; individually, an "Ally") for training and placement in public interest groups, community-based organizations, government agencies and other organizations working for community impact; and

WHEREAS, the Ally is a resource being provided to the Partner Organization in fulfillment of an AmeriCorps grant; and

WHEREAS, the Ally is an AmeriCorps volunteer and shall not be considered to be an employee of the "Partner Organization" receiving assistance under the national service laws (42 U.S.C. 12511(30) (B)) through which the Ally is engaged in service; and

WHEREAS, Partner Organization has indicated that it:

- (a) is a 501(c) 3, 501(c) 4, or government agency having service in the public interest as its mission;
- (b) is committed to diversity, staff development and effective management;
- (c) has a clearly defined and compensated AmeriCorps service position ("Position") suitable for a prospective Ally, expected to have an approximate duration of 10 months from (May 8, 2018 through March 8, 2019) following commencement of service (such months constituting the "Term");

- (d) will provide a close formal relationship pursuant to which Public Allies Site will furnish to Partner Organization, and Partner Organization will accept, one or more qualified Allies for full-time AmeriCorps placement by Partner Organization in a Position;
- (e) has read and understands Partner Organization section of the Public Allies Policies and Procedures for Direct Supervisors of Public Allies AmeriCorps Members (**Exhibit A**); and
- (f) understands its obligation under the Corporation for National and Community Service Grant to Public Allies Site (**Exhibit B**);

NOW, THEREFORE, in consideration of the foregoing and of the recitals, representations and warranties set forth below and upon the terms and conditions contained in this Agreement, the Parties agree as follows:

I. Duties and Responsibilities of the Parties.

A. Duties and Responsibilities of Public Allies Site.

Public Allies Site shall:

i. Use its best efforts to recruit and select Allies for the Program, and to provide information regarding certain Allies to Partner Organization in sufficient detail to permit it to evaluate their suitability for the Position;

ii. Work with Partner Organization on training an Ally applicable to the Position, and use its best efforts to train Ally both during the initial 2-day core training phase and during 2 full days (all of which will be a regular business day) of every month of the Term of the selected areas; and

iii. Pay all Allies a stipend of exactly \$1,500 gross per month, during the Term of the Program in the form of semimonthly payroll checks paid directly to the Ally. This is a monthly living allowance. It is not an hourly wage and will not be disbursed as an hourly wage. The regularly paid stipend amount will remain constant and be paid throughout the entire term, resulting in a gross total stipend of \$15,000 unless an extension of the agreed upon Member term becomes necessary, at which point this agreement will be amended per Section V(L).

Cover the Ally with worker's compensation insurance, FICA taxes on the stipend as applicable under Federal law, and AmeriCorps approved health insurance. Unemployment insurance will be paid if required by state law.

Cost per Ally over the 10-month apprenticeship program term:

- Salary of Allies: \$15,000.00
- FICA: \$1147.50
- SUI: \$639.00
- Workers Comp: \$150.00
- Administrative Fee: \$1,200

iv. Make available to the Ally health insurance that meets or exceeds the standards for Minimum Essential Coverage as defined by the Patient Protection and Affordable Care Act or provides information on health insurance options should the Ally decline the health insurance plan offered by the Site.

B. Duties and Responsibilities of Partner Organization.

Partner Organization shall:

i. Pay a partnership fee of \$1,500.00 per month, per Ally, plus other costs associated with the apprenticeship program as itemized in Exhibit C, for a total not to exceed the amount of \$93,136.50.

Payment will be issued in the form check to Public Allies North Carolina in the amount of \$9,313.65, for 10-months, disbursed each month from Durham County to Public Allies North Carolina after service has been rendered;

First payment is due on June 1, 2018, and every month thereafter;

ii. Select an Ally for the Position(s) for the Term;

iii. For so long as Ally remains with Partner Organization, permit Ally to attend, with full compensation, off-site training for one business day bi-monthly of the Term as well as other AmeriCorps or other Public Allies Site required events, including, but not limited core, mid-year and year-end retreats as outlined on the program year calendar;

iv. Provide Public Allies Site with a clear, AmeriCorps compliant position description that describes capacity building activities as requested;

v. Use the agreed upon position description in providing initial orientation to the Ally during his/her first week at the partner organization;

vi. Provide the Ally with a Supervisor or functional equivalent ('Supervisor') that will provide ongoing guidance and coaching for Ally in fulfilling duties

of the Position and use its best efforts, with the aid of Public Allies Site, to give necessary skills training applicable to the Position;

vii. Ensure that Supervisor attends two supervisor meetings (including Partner Organization Orientation) and completes all required Public Allies Site paperwork in a timely manner; and

viii. In light of the partnership's aim to develop the Ally's leadership potential, use its best efforts to retain Ally for the Term, even in the event of disputes, in which case, Partner Organization shall seek the assistance of Public Allies Site as described in Section III(N).

II. Payment Schedule.

A. The Partner Organization will contribute a total of \$93,136.50 towards the partnership as set forth in Section I(B)(i).

B. Public Allies, upon removal of the Ally from the Partner Organization before the end of the Term or upon termination of this Agreement before the end of the Term, shall reimburse the Partner Organization, within 30 days of termination, for the appropriate percentage of the Partner Organization's contribution toward the Ally's stipend prorated by the time remaining in the Term.

III. Additional Agreements of the Parties.

A. Non-Exclusive Agreement. Public Allies Site and Partner Organization understand that this Agreement is non-exclusive, and that each of them may enter into a similar arrangement with other organizations.

B. Entire Amount Payable Under Agreement. Other than any amount payable by the Partner Organization to Public Allies Site pursuant to Sections I(B)(i) and Section II(A) or payable by Public Allies Site to Partner Organization under Section II(B), neither shall be entitled to payment from the other under this Agreement.

C. Incorporation. The Partner Organization agrees to abide by the terms of the Public Allies Policies and Procedures for Direct Supervisors of Public Allies AmeriCorps Members, as amended from time to time, which are incorporated by reference into this Agreement. The Partner Organization also agrees to be bound by the terms of the Corporation for National and Community Service Grant to Public Allies Site, as applicable to the Partner Organization.

D. Monitoring Visits, Requests for Additional information, and the Maintenance of Records. In addition to any evaluation reports taken by Public Allies Site or Public Allies, Inc. during the course of the Program, Public Allies Site or Public Allies, Inc. or the Corporation for National and Community Service may elect, during regular business hours, to make announced or unannounced visits to the site of the Program or to any location where records pertaining to the Program may be found.

Partner Organization shall comply with any reasonable request made by Public Allies Site or Public Allies, Inc. for additional information, clarification or documentation on the Program, whether in connection with any evaluation or reports, monitoring visits, or otherwise. Partner Organization shall at all times maintain appropriate records pertaining to the Program at a location that will afford Public Allies Site or Public Allies, Inc. reasonable access thereto during a monitoring visit. For compliance with AmeriCorps regulations, Partner Organization should maintain all supporting financial paperwork, including payroll registers, on file for a period of seven years.

E. Evaluation. Partner Organization shall participate as necessary with relevant Public Allies Site or Public Allies, Inc. evaluation efforts. This includes, but is not limited to, defining and gathering specific data, including reporting procedures, quality control, analysis and interpretation, and other elements necessary and appropriate for the evaluation of the Program. Partner Organization will evaluate each Ally's individual performance at the end of each term as part of a complete program evaluation.

F. Fiscal Recording/Reporting Requirements. The financial management systems employed with respect to the Program shall be structured to provide for accurate, current and complete disclosure of relevant financial information. Furthermore, Partner Organization shall keep such additional records as Public Allies Site or Public Allies, Inc. may require, to permit the tracing of funds to ensure that they have not been spent contrary to this Agreement or unlawfully. Partner Organization will provide Public Allies Site or Public Allies, Inc., upon its request, with time logs or other relevant data, regarding the performance of the Ally or Allies placed with Partner Organization, to gather information on the achievement of AmeriCorps performance measures. In addition, Partner Organization will promptly notify Public Allies Site if a placed Ally exhibits erratic attendance, is injured, alleges harassment or otherwise stops or quits reporting to work.

G. Liability Insurance. The Partner Organization will ensure that the Ally is covered under its self-insured arrangement while performing services at the Partner Organization's location or under its direction.

H. Nondiscrimination. In carrying out its part of the Program, Partner Organization shall not discriminate against any Ally or Program applicant because of race, color, religion, sex, sexual orientation, national origin, disability, age, political affiliation, or any other characteristic protected by local, State or Federal law. The AmeriCorps member is a resource provided by a federal grant under the auspices of the National and Community Service Act of 1990, and thus shall constitute Federal financial assistance for purposes of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), and shall constitute Federal financial assistance to an education program or activity for purposes of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.). Partner Organization shall post in conspicuous places, available to Allies and applicants, notices setting forth the provisions of this nondiscrimination

clause. Partner Organization shall state that all qualified applicants will receive consideration for Ally Positions without regard to race, color, religion, sex, sexual orientation, national origin, disability or any other characteristic protected by local, State or Federal law.

I. Reasonable Accommodations and Accessibility. Partner Organization will provide reasonable accommodation to the known mental or physical disabilities of any otherwise qualified Ally and will operate in compliance with the Americans with Disabilities Act and its implementing regulations.

J. Non-displacement and non-duplication. Partner Organization shall not displace any volunteer, employee or position, including partial displacement such as through a reduction in hours, wages or employment benefits, as a result of the assistance available to the Partner Organization through any Ally. No activity that enables Ally to perform meaningful and constructive service in agencies, institutions and situations where the application of human talent and dedication may help to meet human, educational, linguistic, public safety and environmental community needs shall infringe in any manner on the promotional opportunity of an employed individual or a volunteer. No Ally shall perform a service or duties, or engage in activities, that would otherwise be performed by an employee as part of the assigned duties of such employee or by a volunteer. Any Program activities shall not involve the performance of services that would supplant the hiring of employed workers or volunteers or would otherwise be performed by an employee or volunteer, including an employed worker who recently resigned or was discharged, an employee who is subject to a reduction in force, an employee who is on leave (terminal, temporary, vacation, emergency or sick), or an employee who is on strike or is being locked out.

Partner Organization shall not use the Ally to duplicate an activity that is already available in its locality. And, unless the requirement above are met, the Partner shall not use the Ally to conduct activities that are the same or substantially equivalent to activities provided by a State or local government agency in which the Partner Organization resides.

K. Suspension. If Public Allies Site believes that Partner Organization has failed to comply with any material term, condition, representation or warranty of this Agreement or with applicable administrative rules or regulations, Public Allies Site may, upon written notice to the Partner Organization, delay further payments or prohibit such Partner Organization from incurring additional obligations of the Program pending corrective action by the Partner Organization or Public Allies Site may decide to terminate this Agreement in accordance with the relevant provisions herein. A suspension of payments under this Agreement may also occur as a remedy of grievances under Section III(N). If the Partner organization is delinquent or past due in payment of the partnership fee the Public Allies Site or Public Allies, Inc. may take such action, up to and including suspension of the Ally, termination of the agreement, and other legal recourse.

L. Grievance Procedure. Public Allies has a grievance procedure outlined in its policies to resolve disputes concerning the program. Aggrieved parties may file a grievance in accordance with the procedures outlined in the Policies and Procedures Handbook.

M. Termination. Subject to Section V(A), this Agreement shall terminate upon the expiration of the Term following the commencement of service with Partner Organization of Ally/Allies, and may be terminated:

i. By either Party upon 60 days' written notice if, at any time such notice is provided, no Ally is placed with the Partner Organization.

ii. By either party upon 60 days written notice, due to changes in the Partner Organization's mission.

iii. By either party upon 60 days written notice, due to loss of funds necessary to fund in full or in part, the terms of this agreement.

iv. At any time by Public Allies site if it reasonably determines that Partner Organization has been involved in any illegal, improper or similar act which may adversely affect Public Allies Site or the Program;

v. By either Party at any time upon material breach of this Agreement by the other Party.

vi. Within 30 days as a remedy for grievance as provided in Section III(N);

vii. Upon Public Allies Site's release of the Ally from the Program; and

viii. By Partner Organization upon 30 days written notice, if despite agreed upon efforts, it is not satisfied with the performance of Ally/Allies.

Rights and obligations created by or arising under this Agreement shall terminate automatically upon termination of this Agreement, except as otherwise expressly provided.

IV. Certifications, Representations and Warranties.

A. By its execution of this Agreement, Partner Organization certifies under the penalty of perjury, the following:

i. Partner Organization shall ensure that all Allies serving with Partner Organization are provided with a drug-free workplace in accordance with the Drug-Free Workplace Act, 41 U.S.C. Sec. 701 et seq.

ii. Partner Organization shall utilize Ally's services on a full-time basis.

iii. Partner Organization is financially capable of retaining an Ally for the Term and Partner Organization's signing of this Agreement shall serve as Partner Organization's valid, written and binding obligation to contribute \$93,136.50 towards the partnership, as described in Section I(B)(i).

B. Public Allies Site or Public Allies, Inc. will not be responsible for any act or omission of any Ally while such Ally is under the control of Partner Organization, or of any agent, officer, employee or other person acting for or on behalf of Ally or Partner Organization. Public Allies Site makes no representation or warranty as to:

- i. the fitness of any Ally for a Position;
- ii. the suitability of the Program or any Position for Ally;
- iii. the effectiveness of Core Training or Training;
- iv. the content of any Evaluation or Assessment; or
- v. the ability of Public Allies Site to mediate disputes.

C. Each of the Parties represents and warrants that it has all necessary power and authority to enter into this Agreement, that its execution thereof has been duly and validly authorized by all necessary corporate or other action on its part, that it has obtained all required governmental and other third party consents necessary for it to enter into this Agreement, and that this Agreement constitutes a valid and binding obligation on its part, enforceable against it in accordance with the terms hereof.

V. Miscellaneous Provisions.

A. Term of Agreement. This Agreement shall remain in effect until all of its terms and conditions have been satisfied, including compliance with any requests for additional information clarification or documentation under the provisions hereof.

B. Entire Agreement. This Agreement contains the entire understanding between the Parties hereto, supersedes any prior written or oral agreement or writing signed by the Parties hereto or by operation of law; provided, however, that Public Allies may from time to time modify the provisions of the Policies and Procedures for Direct Supervisors of Public Allies AmeriCorps Members. Any modifications shall be considered to be incorporated into, and be part of, this Agreement, as fully as if set forth herein and the Agreement shall continue in full force and effect.

C. Waiver. No term or condition of any term, condition, representation or warranty of this Agreement shall be deemed to have been waived, nor shall there be any estoppel against the enforcement of any provision of this Agreement, except by written instrument of the Party charged with such waiver or estoppel. No such written waiver shall be deemed a continuing waiver unless specifically stated therein, and each such waiver shall operate only as to the specific term, condition, representation or warranty waived and shall not constitute a waiver of such for the future or as to any other that is not specifically waived.

D. Severability. If, for any reason, any provision of this Agreement or its application to any Party, entity (entities) or circumstance(s) is held invalid by any court of competent jurisdiction, this invalidity shall not affect any other provision or application which can be given effect without the invalid provision or application.

E. Captions. Any captions of articles, sections, subsections, paragraphs or subparagraphs of this Agreement are solely for the convenience of the Parties and are not a part of this Agreement or to be used for the interpretation of this Agreement or any provision thereof.

F. Notices. Any notice required to be given under this Agreement will be deemed to have been duly given if in writing and delivered by hand delivery, facsimile or certified mail, return receipt requested, in each case effective upon receipt, to the address of the Party set forth after their respective signatures below (or such other address as a Party may designate by written notice under this paragraph).

G. Counterparts. This Agreement may be executed in multiple counterparts, including photocopied or telecopied versions thereof, each of which shall be deemed an original, and all of which constitute the same instrument.

H. No Third Party Beneficiary Rights. Nothing in this Agreement shall create any third party beneficiary in any person or entity not a Party hereof.

I. Non-Assignability. Neither this Agreement nor any right or interest hereunder shall be assignable by any Party without the prior written consent of the other Parties.

J. Gender and Number. All pronouns shall be deemed to refer to the masculine, feminine, neuter, singular or plural as the identity of the entity, person or persons referred to may require.

K. Applicable Law. This Agreement shall be constructed, interpreted and enforced in accordance with the laws of the State of North Carolina.

L. Amendments to this Agreement. This agreement may be changed or revised by written consent by both parties.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date of year first written above. By signing, all parties agree to uphold all of the terms herein.

Public Allies North Carolina
114 W. Parrish Street
5th Floor
Durham, NC 27701

Partner Organization

By: _____
As its: Member Supervisor

By: _____
As its: Public Allies Executive Director

By: _____
As its: Executive Director

By: _____
As its: Authorized Operating Partner
Representative

By: _____
As its: Controller/C.F.O.

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

Susan Tezai, Durham County Chief Financial Officer

APPENDIX A

LINKS TO AMERICORPS REGULATIONS AND PROVISIONS

AmeriCorps Regulations:

http://www.nationalservice.gov/sites/default/files/page/AmeriCorps_Regulations_9_11_13.pdf

AmeriCorps Provisions:

<http://www.nationalservice.gov/sites/default/files/upload/AmeriCorps%20TermsConditions%204%200215.pdf>

APPENDIX B

Statement of Union Consent

Federal regulations state that wherever AmeriCorps members are serving in organizations where they are performing job functions that are substantially similar to those of employees represented by a labor union, union consent is required in order for the organization to host the AmeriCorps member.

(Check One):

☒ **Not applicable.** My organization either does not have unionized employees, or is hosting a Public Allies AmeriCorps member performing job functions substantially dissimilar from those carried out by unionized employees in my organization.

(OR)

☐ **Applicable.** My organization is hosting a Public Allies AmeriCorps member performing job functions substantially similar to those performed by unionized employees. Written consent from the labor union has been offered in support of the organization hosting an AmeriCorps member.

Signature of Partner Organization Representative

Date