

Type of Contract:

Service Agreement v1, v2 or v3

WAKE COUNTY PUBLIC SCHOOL SYSTEM

Contract Routing Form 1950

Fiscal Year (FY): 2022-23

Person to Contact : Freddie Lee Heath

Phone/Email: 919-533-7192 / flheath@wcpss.net

Name of Contract: North Carolina Symphony

If Change Order - (Amount +/-): \$0.00

Total Contract Amount: \$125,000.00



Board Action: (Required at \$100,000) Yes No
 Budget Code: 02.5130.801.333.0215.0825.000

Board Meeting Date: 10/18/22

Items of Special Note: Annual field trips for WCPSS fourth-grade students. Sex offender not required for field trips.

**To be completed by the School or Department required for all contracts \$2,500 and up
 INITIAL/DATE THIS FORM AFTER YOU HAVE REVIEWED AND APPROVED THE ATTACHED CONTRACT:**

	Initial	Date	Comments
Fiscal Administrator (\$2,500 and up and all MOAs)	<u>TP</u>	<u>9/28/2022</u>	
Budget Manager/Principal (\$2,500 - \$9,999 and All MOAs)	<u>EF</u>	<u>9/29/2022</u>	
Assistant Superintendent or Area Superintendent (\$10,000 - \$99,999 and all MOAs)	<u>DC</u>	<u>9/29/2022</u>	
Superintendent/Chief Officer (\$100,000+ and All MOAs)	<u>EM</u>	<u>9/29/2022</u>	

To be completed by the Administrative Services required for all contracts \$2,500 and up

	Initial	Date	Comments
Risk Management (Insurance Review)	<u>gcb</u>	<u>10/3/2022</u>	
Finance Officer	<u>MBW</u>	<u>9/30/2022</u>	
Chief Business Officer (Required ≥ \$100,000)	<u>DN</u>	<u>9/30/2022</u>	
School Board Attorney (As required by the Chief Officer or Superintendent)			

Non-standard contract certification - "This instrument has been preaudited in the manner required by the School Budget and Fiscal Control Act. G.S. 115C-441(a)

Finance Officer _____ Date _____

POR Approval PG



INVOICE TO
WAKE COUNTY PUBLIC SCHOOL SYSTEM
ACCOUNTING DEPARTMENT
111 CORNING ROAD, Suite 250
CARY, NC 27518

PAYMENT TERMS
 Net 30
PO REVISION
 0

CORRECT PURCHASE ORDER AND STOCK NUMBERS MUST APPEAR ON ALL PACKAGES, INVOICES, SHIPPING PAPERS AND CORRESPONDENCE. PACKING SLIPS MUST ACCOMPANY ALL SHIPMENTS. CONDITIONS AND BILLING INSTRUCTIONS ON REVERSE.

TO
 NORTH CAROLINA SYMPHONY SOCIETY, INC
 3700 GLENWOOD AVENUE
 SUITE 130
 RALEIGH, NC 27612

SHIP TO
 Academics
 Crossroads I, 5625 Dillard Drive
 Cary, NC 27518

DATE	FOB	FREIGHT TERMS	FOR QUESTIONS REGARDING THIS ORDER CONTACT
30-SEP-22	Destination	Prepaid	Gooding, Petra, pgooding@wcpss.net 919-588-3456 EXT. 83456

WCPSS Deliver To Only: Heath, Mr. Freddie L. Academics (DREW COOK)

LINE	WCPSS ITEM NO	WCPSS ACCOUNT CODE ITEM DESCRIPTION	QTY	UOM	UNIT PRICE	AMOUNT
1		02.5130.801.333.0215.0825.000 NORTH CAROLINA SYMPHONYS EDUCATION PROGRAM FOR 2022-2023	125000	Dollar	1.00	125,000.00
Net Total:						125,000.00

PRE-AUDIT CERTIFICATE
 THIS INSTRUMENT HAS BEEN PRE-AUDITED IN THE MANNER
 REQUIRED BY THE SCHOOL BUDGET AND FISCAL CONTROL ACT.

Mark B. Hamilton
 FINANCE OFFICER

* WAKE COUNTY PUBLIC SCHOOL SYSTEM *
 * IS NOT TAX EXEMPT. PLEASE ASSESS 7.25% NC *
 * SALES TAX WHEN INVOICING. *

Debra L. Wallace
 SENIOR DIRECTOR OF PURCHASING

PURCHASE ORDER TERMS AND CONDITIONS

1. **ACCEPTANCE** – Acceptance of this order includes acceptance of all terms, conditions, prices, delivery instructions and specifications as shown on this order or attached to and made a part of this order. By accepting this purchase order, the vendor grants to the purchaser the right to audit vendor's books and records and to make any copies and extracts of any books or records related to the performance of this contract.
2. **PRICES** – Invoices cannot exceed the net total of this order with the exception of sales tax. Sales tax must be invoiced by the vendor. Sales tax is applicable on all orders and the vendor is required to collect and remit to the N.C. Department of Revenue.
3. **PRICE INCREASES** – All requests for price increases or additional shipping charges must be approved by the Purchasing Department prior to shipment. Send request to Purchasing Department, Wake County Public School System, 1551 Rock Quarry Road, Raleigh, N.C. 27610-4145, or Phone (919) 588-3444, or Fax (919) 856-8107.
4. **DELIVERY** – Each shipment must be plainly labeled with the Purchase Order Number and delivered to the address and marked to the attention of the individual or department indicated on the face of this order. A complete packing list must accompany each shipment with any cancellation/back orders indicated.
5. **REJECTED MATERIALS** – Substitute items which are rejected will be returned to the vendor at the vendor's risk and expense.
6. **INVOICES** – Mail, deliver or email all invoices to Accounting Department, Wake County Public School System, 111 Corning Rd, Suite 250, Cary, N.C. 27518. Phone (919) 694-0312. Email: acctspay@wcpss.net. Invoices must show our Purchase Order Number. Invoices will not be paid prior to receipt of items ordered. Adequate and reasonable descriptions and/or written documentation are required for all invoices. All invoices must be in U.S. Dollars.
7. **CANCELLATION** - Wake County Public School System reserves the right to cancel this order in whole or in part at any time by written or telephone notice effective upon receipt by vendor. Any item on this order not received within 61 days from the date of the order, will automatically be cancelled.
8. **ASSIGNMENT** - This Purchase Order may not be assigned by the vendor in whole or in part without prior approval from Wake County Public School System's Purchasing Department.
9. **FREIGHT** - Freight charges and cash discounts are indicated on the face of this Purchase Order.
10. **LEGAL** - It is agreed that the goods, materials, equipment or services rendered shall comply with all Federal, State or Local laws relative thereto. Also, the vendor shall defend actions or claims brought and save harmless Wake County Public School System or its officials or employees from loss, cost, or damage by reason of actual or alleged violation.
11. **COMPLIANCE WITH E-VERIFY** - Provider shall comply with all applicable laws and regulations in providing services under this contract. In particular, Provider shall not employ any individuals to provide services to the School System who are not authorized by federal law to work in the United States. Provider represents and warrants that it is aware of and in compliance with the Immigration Reform and Control Act and North Carolina law (Article 2 of Chapter 64 of the North Carolina General Statutes) requiring use of the E-Verify system for employers who employ twenty-five (25) or more employees and that it is and will remain in compliance with these laws at all times while providing services pursuant to this Contract. Provider shall also ensure that any of its subcontractors (of any tier) will remain in compliance with these laws at all times while providing subcontracted services in connection with this Contract.
12. **COMPLIANCE WITH AFFORDABLE CARE ACT** - Provider is responsible for providing affordable health care coverage to all of its full-time employees providing services to the School System. The definitions of "affordable coverage" and "full-time employee" are governed by the Affordable Care Act and accompanying IRS and Treasury Department regulations.
13. **IRAN DIVESTMENT ACT** - Provider certifies that as of the date of this Contract, Provider is not listed on the Final Divestment List created by the North Carolina State Treasurer pursuant to N.C. Gen. Stat. § 147-86.58. Provider understands that it is not entitled to any payments whatsoever under this Contract if this certification is false. The individual signing this Contract certifies that he or she is authorized by Provider to make the foregoing statement.

Vendor is specifically reminded that state law and board policy prohibit vendors from giving gifts or favors to school system employees in any way involved in the contracting process.



WAKE COUNTY PUBLIC SCHOOL SYSTEM
 DocuSign Envelope ID: 0E67AC4A-82B0-4D08-BFC6-A7D84FE18554
RALEIGH, NC 27610-4145

PURCHASE ORDER
252519
 Page 1 of 1

INVOICE TO
WAKE COUNTY PUBLIC SCHOOL SYSTEM
ACCOUNTING DEPARTMENT
111 CORNING ROAD, Suite 250
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PAYMENT TERMS
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1		02.5130.801.333.0215.0825.000 NORTH CAROLINA SYMPHONYS EDUCATION PROGRAM FOR 2022-2023	125000	Dollar	1.00	

RECEIVER'S SIGNATURE Certifying that the above Goods or services has been received

 DATE

PARTIAL FINAL

BUDGET MANAGER'S SIGNATURE Certifying Receipt and that all regulations set forth by the Finance Manual and Board Policy were followed

 DATE



**WAKE COUNTY
PUBLIC SCHOOL SYSTEM**

Academics

Service Agreement/Contract

Justification/Negotiation Statement

Requestor's Name: **Freddie-Lee Heath**

Vendor's Name: North Carolina Symphony

Date: **9/19/2022**

Justification (why services are required): Annual field trips for all WCPSS 4th grade students to attend the NC Symphony, based on the NC Essential Standards in Music Literacy.

Scope of Services (what is being provided and measurable outcomes): The Symphony collaborates with a team of WCPSS teachers to develop the training materials they share at the beginning of the school year so teachers can prepare students for an experience that is deeply aligned with the NC Essential Standards in Music Education.

Negotiation (Price/terms negotiated; if bid or quote for services is not the lowest of the three quotes or submitted bids please justify): There is not another NC Symphony in our area that can provide this service for the large number of students and number of concerts needed. This is a reduced rate for WCPSS at \$28.81 per student.

WAKE COUNTY PUBLIC SCHOOL SYSTEM

This contract (the "Contract") is made and entered into this 19th day of October 2022, between the Wake County Board of Education (the "School System"), 5625 Dillard Drive, Cary, NC 27518, and North Carolina Symphony (the "Provider"), 3700 Glenwood Avenue, Suite 130, Raleigh, NC 27612.

For and in consideration of the mutual promises set forth in the Contract the parties do mutually agree as follows:

1. **Obligations and Representations of Parties.** Provider hereby agrees to provide the following services to the School System: The North Carolina Symphony will provide Wake County Public Schools with educational concerts for our fourth grade students in line with the NC Essential Standards in Arts Education during the 2022-23 school year, including participation in the NC Educational Concert Series at Meymandi Concert Hall, at designated times and sites as specifically requested and authorized by the School System (10/25/22, 11/15/22, 1/04/23, 1/05/23, 1/25/23, 2/07/22, 2/14/23, 2/21/23, 3/20/23, 4/25/23). The work will be completed in a manner acceptable to the School System and in full compliance with the terms and conditions of this Contract, including any documents incorporated by reference. All agents or employees of Provider who will provide services under this Contract will be fully qualified, possess any requisite licenses, and otherwise be legally entitled to perform the services provided, and shall exercise the skill and care customarily exercised by duly licensed and qualified providers of the same or similar services. The parties acknowledge that the Wake County Board of Education has authorized the Superintendent or designee to enter into service contracts involving expenditures of up to \$100,000. The parties further acknowledge that the School System may perform all or part of its obligations pursuant to this Contract through the Superintendent or designee.
2. **Compensation.** The School System hereby agrees to compensate Provider in the amount (not to exceed) \$125,000.00 School System with invoice(s) itemized by service provided the number of hours worked and by whom, the date(s) that services were provided, and the amount owed, along with any supporting documentation that may be requested in advance by School System. The School System shall process payments to Provider within forty-five (45) days of submission of such invoice(s).
3. **Contract Funding.** It is understood and agreed between Provider and the School System that the School System's payment obligation under this Contract is contingent upon the availability of appropriated funds from which payment for Contract purposes can be made.
4. **Term.** The services described in this Contract will be provided from October 25, 2022, through April 25, 2023, unless sooner terminated as herein provided.
5. **Termination for Convenience.** The School System may terminate this Contract at any time at its complete discretion upon twenty (20) calendar days' notice in writing from the School System to Provider prior to the date of termination. In addition, all finished or unfinished documents and other materials produced by Provider pursuant to this Contract shall, at the request of the School System, be turned over to it and become its property. If the Contract is terminated by the School System in accordance with this section, the School System will provide a prorated payment for all services performed as of the date of termination.
6. **Termination for Default.** At any time, the School System may terminate this Contract immediately and without prior notice if provider is unable to meet goals and timetables or if the School System is dissatisfied with the quality of services provided.
7. **Insurance.** Provider agrees to maintain Commercial General Liability in amount of \$1,000,000 each occurrence, \$1,000,000 each occurrence in Personal & Advertising Injury with \$2,000,000 General Aggregate, and \$2,000,000 Products/Completed Operations Aggregate. Provider shall maintain \$1,000,000 in automobile liability, and other appropriate insurance, as well as Workers Compensation in the required statutory amount for all employees participating in the provision of services under this Contract. The Wake County Board of Education shall be named by endorsement as an additional insured on the General and Automobile Liability policies. Certificates of such insurance shall be furnished by Provider to the School System and shall contain an endorsement to provide the School System at least 10 days' written notice of any intent to cancel or terminate by either Provider or the insuring company. Failure to furnish insurance certificates or maintain such insurance shall be a default under this Contract and shall be grounds for immediate termination of this Contract.
8. **Taxes.** Provider shall pay all federal, state and FICA taxes for all employees participating in the provision of services under this Contract.

9. Monitoring and Auditing. Provider shall maintain, during the entirety of this Contract term, including any extensions, and for three (3) years thereafter, receipts, records, and/or documents to support the following: the cost of materials purchased for Projects completed under this Contract by the Provider or its subcontractor; the number of labor hours billed by the Provider's employees and its subcontractors; the sales tax paid by the Provider and its subcontractors for materials; and the names and contact information for all of Provider's employees or subcontractors who performed work under this Contract. Provider must be able to provide this supporting documentation to the School System upon request during the Contract term, including any extensions, and within three (3) years thereafter. Provider shall cooperate with the School System, or with any other person or agency as directed by the School System, in monitoring, auditing, or investigating activities related to this Contract. Provider shall permit the School System to evaluate all activities conducted under this contract as dictated by the School System. Provider shall provide auditors retained by the School System with access to any records and files related to the provision of services under this Contract.
10. Confidentiality of Student Information. Provider agrees that all student records or personally identifiable information contained in student records that may be obtained in the course of providing services to the School System under this Contract shall be subject to the confidentiality and disclosure provisions of applicable federal and state statutes and regulations as well as the School System's policies. All student records shall be kept in a secure location preventing access by unauthorized individuals. Provider will maintain an access log delineating date, time, agency, and identity of individual accessing student records who is not in the direct employ of Provider. Provider shall not forward to any person other than parent, or the School System any student record or personally identifiable information obtained from a student record (including, but not limited to, the student's identity) without the written consent of the School System. Upon termination of this Contract, Provider shall turn over to the School System all student records or personally identifiable information about students obtained by Provider while providing services under this Contract. Nothing in this Contract gives Provider any right to access any student records or personally identifiable information.
11. Lunsford Act/Criminal Background Check. Provider also acknowledges that G.S. § 14-208.18 prohibits anyone required to register as a sex offender under Article 27A of Chapter 14 of the General Statutes from knowingly being on the premises of any school. Provider shall conduct or arrange to have conducted, at its own expense, sexual offender registry checks on each of its owners, employees, agents and subcontractors ("contractual personnel") who will engage in any service on or delivery of goods to School System property or at a School System sponsored event, except checks shall not be required for individuals who are solely delivering or picking up equipment, materials, or supplies at: (1) the administrative office or loading dock of a school; (2) non-school sites; (3) schools closed for renovation; or (4) school construction sites. The checks shall include at a minimum checks of the State Sex Offender and Public Protection Registration Program, the State Sexually Violent Predator Registration Program, and the National Sex Offender Registry ("the Registries"). For Provider's convenience only, all of the required registry checks may be completed at no cost by accessing the United States Department of Justice Sex Offender Public Website at <http://www.nsopw.gov/>. Provider shall provide certification on the Sexual Offender Registry Check Certification Form (Attachment A) that the registry checks were conducted on each of its contractual personnel providing services or delivering goods under this Contract prior to the commencement of such services or the delivery of such goods. Provider shall conduct a current initial check of the registries. The sex offender registry checks shall be conducted within 30 days of Provider's execution of the Contract and prior to performing any services on School System property. In addition, Provider agrees to conduct the registry checks and provide a supplemental certification form before any additional contractual personnel are used to deliver goods or provide services pursuant to this Contract. Provider further agrees to conduct annual registry checks of all contractual personnel and provide annual certifications at each anniversary date of this Contract. Provider shall not assign any individual to deliver goods or provide services pursuant to this Contract if said individual appears on any of the listed registries. Provider agrees that it will maintain all records and documents necessary to demonstrate that it has conducted a thorough check of the registries as to each contractual personnel and agrees to provide such records and documents to the School System upon request. Provider specifically acknowledges that the School System retains the right to audit these records to ensure compliance with this section at any time in the School System's sole discretion. If requested by the School System, the Provider shall provide sufficient background information regarding any or all contractual personnel who may deliver goods or perform services under this contract in order to allow the school system to perform a criminal background check on each individual at the School System's expense. Provider further agrees that it has an ongoing obligation to provide the School System with the name of any new contractual personnel who may deliver goods or provide services under the Contract. The School System reserves the right to prohibit any contractual personnel of Provider from delivering goods or providing services under

this Contract if the School System determines, in its sole discretion, that such contractual personnel may pose a threat to the safety or well-being of students, school personnel or others, or if such contractual personnel may otherwise pose a risk to the School System's operations. Failure to comply with the terms of this provision shall be deemed a material breach of the Contract.

12. Indemnification. Provider shall indemnify and hold harmless the School System and its agents and employees from and against all claims, actions, demands, costs, damages, losses, and/or expenses of any kind whatsoever resulting from the omission or commission of any act, lawful or unlawful, by Provider or its agents and/or employees, including but not limited to court costs and attorney's fees, incurred in connection with the defense of said matters. The parties agree that this indemnification clause is an "evidence of indebtedness" for purpose of N. C. Gen. Stat. § 6-21.2.
13. Relationship of Parties. Provider shall be an independent contractor of the School System, and nothing herein shall be construed as creating a partnership or joint venture; nor shall any employee of Provider be construed as an employee, agent, or principal of the School System. Provider shall not assign, subcontract, or otherwise transfer any interest in this contract without the prior written approval of the School System.
14. Applicable Laws. Provider shall comply with all applicable laws and regulations in providing services under this Contract. In particular, Provider shall not employ any individuals to provide services to the School System who are not authorized by federal law to work in the United States. Provider represents and warrants that it is aware of and in compliance with the Immigration Reform and Control Act and North Carolina law (Article 2 of Chapter 64 of the North Carolina General Statutes) requiring use of the E-Verify system for employers who employ twenty-five (25) or more employees and that it is and will remain in compliance with these laws at all times while providing services pursuant to this Contract. Provider shall also ensure that any of its subcontractors (of any tier) will remain in compliance with these laws at all times while providing subcontracted services in connection with this Contract. North Carolina law will govern the interpretation and construction of the Contract. Provider shall comply with the Affordable Care Act and accompanying IRS and Treasury Department regulations.
15. Provider's Representations. Provider represents that as of the date of this Contract, Provider is not included on the Final Divestment List created by the North Carolina State Treasurer pursuant to N.C. Gen. Stat. § 147-86.58. Provider also represents that as of the date of this Contract, Provider is not included on the list of restricted companies determined to be engaged in a boycott of Israel created by the North Carolina State Treasurer pursuant to N.C. Gen. Stat. § 147-86.81.

Provider is duly qualified to do business in North Carolina. If Provider is a business entity that is not registered in North Carolina, prior to beginning the services described by this Contract, Provider shall either (i) obtain a certificate of authority from the Secretary of State for North Carolina, pursuant to N. C. Gen. Stat. § 55-15-03, or (ii) provide a letter from an attorney indicating that the attorney has reviewed N. C. Gen. Stat. § 55-15-01 and determined that Provider is not required to obtain a certificate of authority pursuant to N. C. Gen. Stat. § 55-15-01(b).
16. Anti-Nepotism. Provider warrants that, to the best of its knowledge and in the exercise of due diligence, none of its corporate officers, directors, or trustees and none of its employees who will directly provide services under this Contract are immediate family members of any member of the Wake County Board of Education or of any principal or central office staff administrator employed by the Wake County Board of Education. For purposes of this provision, "immediate family" means spouse, parent, child, brother, sister, grandparent, or grandchild, and includes step, half, and in-law relationships. Should Provider become aware of any family relationship covered by this provision or should such a family relationship arise at any time during the term of this Contract, Provider shall immediately disclose the family relationship in writing to the Superintendent of the Wake County Public School System. Unless formally waived by the Wake County Board of Education, the existence of a family relationship covered by this Contract is grounds for immediate termination by Owner without further financial liability to Provider.
17. Applicable Wake County Board of Education Policies. Provider acknowledges that the Wake County Board of Education has adopted policies governing its relationship with vendors and conduct on School System property and agrees to abide by any and all relevant WCPSS policies during the term of the contract and while on School System property. WCPSS's Provider related polices can be viewed at <https://www.wcpss.net/Page/45862> and are incorporated into this Contract by reference.
18. Entire Agreement. This Contract may be amended only by written amendments duly executed by and between the School System and Provider. This Contract, including the purchase order, if any, used in connection herewith and any other document(s) expressly incorporated by reference as a part of this Contract, constitutes and expresses the entire agreement and understanding between the parties concerning its subject matter. This Contract

supersedes all prior and contemporaneous discussions, promises, representations, agreements and understandings relative to the subject matter of this contract. To the extent there may be any conflict between the four corners of this Contract and other documents incorporated by reference herein, the terms of this Contract will control. If any provision of this Contract shall be declared invalid or unenforceable, the remainder of the Contract shall continue in full force and effect.

- 19. Counterparts and Execution. This Contract may be executed in any number of counterparts, each of which shall be deemed an original but all of which together will constitute one and the same agreement. The Parties agree that scanned, faxed, and/or electronically transmitted copies of this Contract will have the same validity and force as an original, and that scanned, faxed, or electronic signatures shall be deemed original signatures for purposes of this Contract and given the same legal effect as original signatures.
- 20. Authority to Enter Contract. The person(s) executing this Contract on behalf of Provider have authority to do so as an official, binding act of Provider.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first indicated above.

**WAKE COUNTY
BOARD OF EDUCATION**

PROVIDER

Lindsay Mahaffey, Board Chair

Authorized Signature

This instrument has been pre-audited in the manner required by the School Budget and Fiscal Control Act. G.S. 115C-441(a).

DocuSigned by:

9/30/2022

 Finance Officer Date

