

Board of Trustees Agenda Item

Board Meeting Date: May 7, 2012

Title of Item: Approval of Oracle Maintenance Agreement Amendment

Background and Analysis:

On February 27, 2008, the board approved two five-year contracts with SunGard Higher Education (SunGardHE), including a Software License & Services Agreement and a Start-up Support / Maintenance Services Agreement, both associated with the procurement of the Banner administrative information system. The contracts covered many components in addition to Banner software including license and maintenance agreements for other software applications that integrate with Banner, but are produced by different vendors. One software application was the Oracle database management system (Oracle DBMS), which is produced and licensed by the Oracle Corporation. The Banner system, a software application, requires integration with the Oracle DBMS to provide any and all of its functionality. The initial five-year Start-up Support / Maintenance Services Agreement approved by the board provided five-years of services for all software products, except Oracle. Oracle was covered for only two years, through February 28, 2010.

Every two years, SunGardHE sends a contract amendment to the district to continue the Oracle maintenance agreement for an additional two-year period. Accordingly, on February 28, 2010, the district signed the first contract amendment to renew the Oracle maintenance agreement for two years. This amendment of a board-approved contract should have been brought to the board for approval, but the district neglected to do so due to an oversight.

Another two years has passed and SunGardHE has now sent a second amendment to the District for Oracle maintenance. The district now requests board approval for this second amendment, which will provide maintenance for the Oracle DBMS software and related products for another two years, through February 28, 2014, at a total cost of \$545,226.

	Original SunGardHE Contract - Oracle component (3 years)	1st Amendment (2 years)	2nd Amendment (2 years)
Period covered	March 1, 2008 to February 28, 2011	March 1, 2010 to February 29, 2012	March 1, 2012 to February 28, 2014
Cost	Year 1: \$207,892 Year 2: \$216,208 (+4.0%)	Year 3: \$226,306 (+4.7%) Year 4: \$235,357 (+4.0%)	Year 5: \$267,268 (+13.6%) Year 6: \$277,958 (+4.0%)

As can be seen in the table above, the cost of the maintenance agreement increases by 4% a year but is also adjusted periodically for the size of the institution based on FTES. This is in agreement with the terms of the original master contract signed by the District and SungardHE in 2008. Also note that SunGardHE is now called Ellucian, after its recent merger with Datatel Inc.

Recommendation: Vice Chancellor of Technology Fred Sherman recommends approval of the amendment to the Oracle maintenance agreement

Submitted by:	Fred Sherman, Vice Chancellor of Technology, x6120
Additional contact names:	Chien Shih, Director of Information Systems & Operations, x 6139
Is backup provided?	Yes

SUNGARD HIGHER EDUCATION

4 Country View Road
Malvern, PA 19355
www.sungardhe.com

May 12, 2010

Ms. Pam Eberhardt
Executive Assistant
Foothill-DeAnza Community College District
12345 El Monte Road
Los Altos Hills, CA 94022-4597

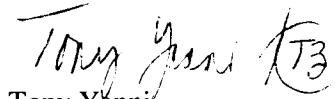
Re: Amendment to Start-Up Support Services Agreement (February 29, 2008)

Dear Pam,

Enclosed please find one fully executed signature copy of the above referenced Amendment between SunGard Higher Education and Foothill-DeAnza Community College District. One original signature copy has been maintained for the SunGard Higher Education contract files.

SGHE highly values its relationship with your school and we look forward to serving you in the future. Please feel free to contact me when I can be of assistance.

Thank you and best regards,

A handwritten signature in black ink, appearing to read "Tony Yanni" followed by a stylized monogram or initials.

Tony Yanni
General Manager, Client Maintenance Programs

Enclosure

**AMENDMENT TO
START-UP SUPPORT SERVICES AGREEMENT**

SUNGARD HIGHER EDUCATION INC.
("SunGard Higher Education")

and

FOOTHILL – DE ANZA COMMUNITY COLLEGE DISTRICT
("Licensee")

3/1/10 - 2/28/11
MC 101 434
= 101 434
+ 101 434

This Start-up Support Services Amendment is entered into by the parties on the latest date shown on the signature page of this Amendment, and amends the Start-up Support Services Agreement between the parties having a Commencement Date of February 29, 2008, as may thereafter have been amended (the "Start-up Support Services Agreement"). SunGard Higher Education's obligations hereunder shall commence on March 1, 2010.

LICENSEE AND SunGard Higher Education, intending to be legally bound, agree as follows:

1. Defined Terms. Unless specifically defined herein, all terms defined in the Start-up Support Services Agreement shall have the same meaning when used in this Start-up Support Services Amendment.

2. Amendment to and Modification of Start-up Support Services Agreement.

(a) SunGard Higher Education agrees to provide Improvements with respect to the additional Baseline Component Systems identified in Exhibit 1 (the "Start-up Support Services Exhibit"), attached to this Start-up Support Services Amendment on the same terms and conditions as the Start-up Support Services Agreement for the period and for the fee specified in the Start-up Support Services Exhibit. The term of the Start-up Support Services Agreement is deemed to be extended as provided for in the Start-up Support Services Exhibit for purposes of this Start-up Support Services Amendment. Any amounts indicated on the Start-up Support Services Exhibit are in addition to all other amounts payable under the Start-up Support Services Agreement.

(b) The hours during which Start-up Support Services will be provided for each Component System, the targeted response times for certain defined categories of Start-up Support Services calls for each Component System, and other details and procedures (collectively, the "Start-up Support Services Standards") relating to the provision of Start-up Support Services for each Component System are described in the applicable Supplement attached as Exhibit 2 hereto. To the extent that a different Start-up Support Services Standard applies to certain of the Component Systems than that which applies to others, the Start-up Support Services Standard applicable to each Component System will be described in the table in Exhibit 1 and the corresponding Supplements will be attached in Exhibit 2.

3. Integration Provision. Except as expressly modified by this Start-up Support Services Amendment, the Start-up Support Services Agreement shall remain in full force and effect. As of the Execution Date, the Start-up Support Services Agreement, as further amended by this Start-up Support Services Amendment, constitutes the entire understanding of the parties as regards the subject matter hereof and cannot be modified except by written agreement of the parties.

SunGard Higher Education

BY: _____

PRINT NAME: GALERIE MEAD

PRINT TITLE: VICE PRESIDENT, FIN'

DATE SIGNED: 4/30/10

Licensee

BY: _____

PRINT NAME: Fred Sherman

PRINT TITLE: Vice Chancellor & CTO

DATE SIGNED: 4/29/10

Quinn Smith 4/29/2010

EXHIBIT 1

Licensee: Foothill – De Anza Community College District

MAINTENANCE TABLE

FIRST ANNUAL CONTRACT YEAR PAYMENT DATE: See footnotes 1 and 2 below

Component System	Contract Year Begins/Ends	Expiration Date	Start-up Support Services Standards	Initial Payment Amount
Oracle – Full Use Campus Wide ³	March 1/February 28	February 29, 2012	Silver	Included
Year 1 Amount (covers the contract year March 1, 2010 to February 28, 2011)				\$226,306 ¹
Year 2 Amount (covers the contract year March 1, 2011 to February 29, 2012)				\$235,357 ²

MC101434

AA 111 430

Notes to Maintenance Table

Notwithstanding Section 7(a) of the Start-up Support Services Agreement, Start-up Support Services for the Baseline Oracle Component System will renew on a Contract Year-to-Contract Year basis only through February 29, 2012. Licensee will have the option to renew Start-up Support Services for the Baseline Oracle Component System for one (1) additional Contract Year through February 28, 2013, by providing written notice to SunGard Higher Education at least 90 days prior to the Expiration Date of February 29, 2012. Start-up Support Services for the Baseline Oracle Component System will not renew for any Contract Year after February 28, 2013.

¹ For the Oracle Component Systems set forth in the Maintenance Table, the “Year 1 Amount” represents the amount due on March 1, 2010 for Improvements for the first full Contract Year.

² For the Oracle Component Systems set forth in the Maintenance Table, the “Year 2 Amount” represents the amount due on March 1, 2011 for Improvements for the second full Contract Year.

³ Indicates that the Component System is owned by a third party.

EXHIBIT 2
Silver Level Start-up Support Services Standards

I. Defined Terms:

“Notification” means a communication to SunGard Higher Education’s ActionLine by means of: (i) SunGard Higher Education’s ActionWeb; (ii) the placement of a telephone call; or (iii) the sending of an e-mail, in each case, in accordance with SunGard Higher Education’s then-current policies and procedures for submitting such communications.

“Priority One Call” means a Notification that Licensee believes that a Documented Defect has caused: (i) a full failure (i.e., “crash”) of its computer system; (ii) a full failure of the Licensed Software; or (iii) a failure of its computer system or the Licensed Software which, in either case, prevents Licensee from performing data processing which is critical to Licensee’s operations on the day on which the alleged Documented Defect is reported.

“Priority Two Call” means a Notification that Licensee believes that a Documented Defect has caused a partial failure of Licensee’s computer system or the Licensed Software which significantly hinders its ability to perform data processing which is critical to Licensee’s operations on the day on which the alleged Documented Defect is reported.

“Priority Three Call” means a Notification that Licensee believes that a Documented Defect has caused an intermittent failure of, or problem with, its computer system or the Licensed Software that causes a significant delay in Licensee’s ability to perform data processing on the day on which the alleged Documented Defect is reported, but where the processing is not critical to Licensee’s operations.

“Priority Four Call” means a Notification that Licensee believes that a Documented Defect has caused a problem with its computer system or the Licensed Software that does not significantly affect critical processing.

II. Hours During Which SunGard Higher Education’s “ActionLine” Telephone Support Will be Available to Licensee in Connection with the Provision of Maintenance: Seven (7) days per week, 24 hours per day.

Note: SunGard Higher Education’s ActionLine uses an automated answering system to receive and record telephone calls from clients, as well as to receive reports via SunGard Higher Education’s ActionWeb and e-mail. This system allows SunGard Higher Education’s ActionLine staff to classify, prioritize, record basic details, conduct certain research, and assign a consultant to respond to a client’s telephone call.

III. Targeted Response Times. With respect to SunGard Higher Education’s Maintenance obligations, SunGard Higher Education will use diligent, commercially reasonable efforts to respond to Notifications from Licensee relating to the Baseline Component Systems identified in Exhibit 1 of this Agreement in accordance with the following guidelines:

Priority One Calls –two (2) hours or less.

Priority Two Calls - four (4) hours or less.

Priority Three Calls – twenty-four (24) hours or less.

Priority Four Calls – seventy-two (72) hours or less.

Notes: (1) For purposes of these targets, a “response” will mean as an initial contact from an SunGard Higher Education representative to Licensee to begin evaluation of the problem reported under one of the categories of calls identified above; (2) As a prerequisite to SunGard Higher Education’s obligation to respond to Licensee, Licensee must follow the policies and procedures of SunGard Higher Education’s ActionLine (such as the dialing of a particular phone number, the categorization of a particular problem, etc.) when submitting its Notification.

15005255

AMENDMENT TO THE
START UP SUPPORT SERVICES AGREEMENT

1/10/12
5/2/2012

SOPHIA HIGHER EDUCATION INC.

a Datatel+SGHE Company
4 Country View Road, Malvern, Pennsylvania 19355
("Company")

and

FOOTHILL-DE ANZA COMMUNITY COLLEGE DISTRICT

**12345 El Monte Road
Los Altos Hills, CA 94022**
("Licensee")

Company and Licensee are parties to the Start up Support and Services Agreement dated February 29, 2008, as thereafter amended (the "Maintenance Agreement"). Licensee now desires to obtain from Company Improvements for the Licensed Software identified in this Amendment (the "Maintenance Amendment"), on the terms and conditions of the Maintenance Agreement, as modified by this Maintenance Amendment. This Maintenance Amendment is entered into by the parties on the latest date shown on the signature page of this Maintenance Amendment (the "Execution Date"). Company's obligations hereunder will commence on March 1, 2012 (the "Commencement Date"). Company and Licensee, intending to be legally bound, agree as follows:

1. **Defined Terms.** Unless specifically defined herein, all terms defined in the Maintenance Agreement will have the same meaning when used in this Maintenance Amendment.

2. **Amendment to and Modification of Maintenance Agreement.**

(a) Company agrees to provide Improvements with respect to the additional Component Systems identified in the attached Exhibit 1, on the same terms and conditions as the Maintenance Agreement for the period and for the fee specified in the attached Exhibit 1. The term of the Maintenance Agreement is deemed to be extended as provided for in the attached Exhibit 1 for purposes of this Maintenance Amendment. Any amounts indicated on the attached Exhibit 1 are in addition to all other amounts payable under the Maintenance Agreement.

(b) The hours during which Maintenance will be provided for each Component System, the targeted response times for certain defined categories of Maintenance calls for each Component System, and other details and procedures (collectively, the "Maintenance Standards") relating to the provision of Maintenance for each Component System are described in the applicable Supplement attached as Exhibit 2 hereto. To the extent that a different Maintenance Standard applies to certain of the Component Systems than that which applies to others, the Maintenance Standard applicable to each Component System will be described in the table in Exhibit 1 and the corresponding Supplements will be attached in Exhibit 2.

(c) **Services Limitations.** All Improvements will be part of the applicable Baseline Component System and will be subject to all of the terms and conditions of the License Agreement and the Maintenance Agreement. Company's obligation to provide Licensee with Improvements for Baseline Component Systems owned by parties other than Company is limited to providing Licensee with the Improvements that the applicable third party owner provides to Company for that Baseline Component System. In this regard, to the extent that an agreement authorizing Company to resell or sublicense a third party's Baseline Component System is terminated or expires prior to the Expiration Date, or prior to the expiration of any renewal term, for that Baseline Component System, then Company's obligation to provide Improvements to Licensee for that Baseline Component System, and Licensee's obligation to pay Company for such Improvements, shall automatically terminate simultaneously with the termination or expiration of the relevant agreement. Licensee must provide Company with such facilities, equipment and support as are reasonably necessary for Company to perform its obligations under the Maintenance Agreement, including remote access to the Equipment.

(d) Term. The term of the Maintenance Amendment as it applies to each Baseline Component System is for the period beginning on the Commencement Date and continuing until the Expiration Date for that Baseline Component System. Licensee must advise Company in writing received by Company at its corporate headquarters by no later than ninety days prior to the upcoming contract term if Licensee elects to not renew Maintenance for the Baseline Oracle Component System for the upcoming Contract Year.

3. **Integration Provision.** Except as expressly modified by this Maintenance Amendment, the Maintenance Amendment will remain in full force and effect. As of the Execution Date, the Maintenance Amendment, as further amended by this Maintenance Amendment constitutes the entire understanding of the parties as regards the subject matter hereof and cannot be modified except by written agreement of the parties. Both the transaction provided for in and the fees due under this Maintenance Amendment are non-cancelable, and the amounts paid under this Maintenance Amendment are nonrefundable, except as provided in this Maintenance Amendment. By the execution of this Maintenance Amendment, each party represents and warrants that it is bound by the signature of its respective signatory.

Company

BY: _____

PRINT NAME: Valerie Mead
VP Finance

PRINT TITLE: _____

DATE SIGNED: 2/29/12

Licensee

BY: _____

PRINT NAME: Fred Sherman

PRINT TITLE: CTO & Vice Chancellor

DATE SIGNED: 2/28/2012

Gloria Z. McElroy
2/28/2012

EXHIBIT 1

Licensee: Foothill-De Anza Community College District

MAINTENANCE TABLE – Oracle Full Use Campus Wide (See Description Below)

FIRST ANNUAL CONTRACT YEAR PAYMENT DATE: *March Jan*
January 1, 2012

Component Systems	Contract Year Begins/Ends	Expiration Date	Maintenance Standards	Payment Amount
Oracle Relational Database System ²	March 1/Feb. 28	February 28, 2014	Silver	Included
Oracle Database Diagnostics Pack ²	March 1/Feb. 28	February 28, 2014	Silver	Included
Oracle Database Configuration Management Pack ²	March 1/Feb. 28	February 28, 2014	Silver	Included
Oracle Tuning Pack ²	March 1/Feb. 28	February 28, 2014	Silver	Included
Oracle Internet Application Server Enterprise Edition ²	March 1/Feb. 28	February 28, 2014	Silver	Included
Oracle Internet Developer Suite ²	March 1/Feb. 28	February 28, 2014	Silver	Included
Oracle Programmer ²	March 1/Feb. 28	February 28, 2014	Silver	Included
Year 1 Payment Amount, due March 1, 2012 (for contract year Mar. 1, 2012 to Feb. 28, 2013)				\$267,268 ¹
Year 2 Payment Amount, due March 1, 2013 (for contract year Mar. 1, 2013 to Feb. 28, 2014)				\$277,958 ¹

NOTES TO MAINTENANCE TABLE:

¹ For the Baseline Component Systems set forth in the Maintenance Table, the "Initial Payment Amount" represents the amount due on the First Annual Contract Year Payment Date for Improvements for the first full Contract Year. Fees for Improvements for each subsequent Contract Year are payable on the anniversary of the First Annual Contract Year Payment Date. Improvement fees for the second Contract Year will be specified by SunGard Higher Education in an annual invoice. **Improvements for the Baseline Oracle Component System will not renew for any Contract Year after February 28, 2014. For any period subsequent to the Expiration Date, Licensee must contract directly with, and submit maintenance fee payments for the Baseline Oracle Component Systems directly to, Oracle Corporation in accordance with such terms as Licensee and Oracle Corporation may agree.**

² Indicates that the Component System is owned by a third party.

Oracle Campus Wide Program License Software – Description

Description/License Type	Limitation – Named User Plus (NUP)
<p>Oracle Database Enterprise Edition – Named User Plus (“NUP”) Perpetual Campus Wide Program License</p> <p>Includes: JServer Enterprise Edition, interMedia, Objects Option, Networking Kit, Objects for OLE, Advanced Replication Option, Distributed Option, Parallel Query Option, (including bitmap indexes and parallel bitmap-star query),</p> <p>SQL*Plus, Visual Information Retrieval and Workflow.</p> <p>Also included are: Advanced Backup & Recovery, Queuing, Advanced, Connection Manager & Pooling, 64-bit option, Warehouse Builder, SQL Developer Data Modeler, MPI, OCI, ODBC Driver, Enterprise Manager and Enterprise backup utility.</p> <p>For OS/390 implementation, use of either Access Manager for CICS or Access Manager for IMS/TM is included.</p> <p>Restricted Use: Oracle Internet Directory for the purposes of storing Oracle Database Service information.</p> <p>Restricted use of Oracle Cloud File System is included, specifically for storing Oracle software binaries and homes, Oracle software administrative files, and Oracle software diagnostic files.</p>	40,157 Users
Diagnostics Pack – Named User Plus (“NUP”) Perpetual – Campus Wide Program License	40,157 Users
Configuration Management Pack – Named User Plus (“NUP”) Perpetual – Campus Wide Program License	40,157 Users
Tuning Pack – Named User Plus (“NUP”) Perpetual – Campus Wide Program License	40,157 Users
<p>Internet Application Server Enterprise Edition – Named User Plus (“NUP”) Perpetual Campus Wide Program License</p> <p>Includes: Oracle Forms Services, Oracle Reports Services, TopLink and Application Development Framework, Portal, Discoverer Viewer, Discoverer Plus (Web Functionality), Identity Management, Application InterConnect Toolkit, Integration and Enterprise Service Bus, Java SE, WebLogic Server Basic, Oracle Access Manager Basic, and Personalization.</p> <p>Restricted Use: (i) The Oracle Database is provided for use with the Repository Creation Utility database schema for storing product configuration metadata. Storing any application data in the Repository Creation Utility database schema database requires a full use license of the Oracle database. (ii) Advanced Security Option limited to Oracle Java SSL library. (v) Oracle Workflow is provided for use with Oracle Content Management Software Development Kit and for use with Oracle Application Server Integration InterConnect and Oracle Application Server Integration B2B only.</p>	40,157 Users
Internet Developer Suite – Named User Plus Perpetual License	10 Users
Programmer – Named User Plus Perpetual License	10 Users

EXHIBIT 2

Silver Level Maintenance Standards

I. Defined Terms:

“Notification” means a communication to Company’s ActionLine by means of: (i) Company’s Customer Support Center; (ii) the placement of a telephone call; or (iii) the sending of an e-mail, in each case, in accordance with Company’s then-current policies and procedures for submitting such communications.

“Priority One Call” means a Notification that Licensee believes that a Documented Defect has caused: (i) a full failure (i.e., “crash”) of its computer system; (ii) a full failure of the Licensed Software; or (iii) a failure of its computer system or the Licensed Software which, in either case, prevents Licensee from performing data processing which is critical to Licensee’s operations on the day on which the alleged Documented Defect is reported.

“Priority Two Call” means a Notification that Licensee believes that a Documented Defect has caused a partial failure of Licensee’s computer system or the Licensed Software which significantly hinders its ability to perform data processing which is critical to Licensee’s operations on the day on which the alleged Documented Defect is reported.

“Priority Three Call” means a Notification that Licensee believes that a Documented Defect has caused an intermittent failure of, or problem with, its computer system or the Licensed Software that causes a significant delay in Licensee’s ability to perform data processing on the day on which the alleged Documented Defect is reported, but where the processing is not critical to Licensee’s operations.

“Priority Four Call” means a Notification that Licensee believes that a Documented Defect has caused a problem with its computer system or the Licensed Software that does not significantly affect critical processing.

II. Hours During Which Company’s “ActionLine” Telephone Support Will be Available to Licensee in Connection with the Provision of Maintenance: Seven (7) days per week, 24 hours per day.

Note: Company’s ActionLine uses an automated answering system to receive and record telephone calls from clients, as well as to receive reports via Company’s Customer Support Center and e-mail. This system allows Company’s ActionLine staff to classify, prioritize, record basic details, conduct certain research, and assign a consultant to respond to a client’s telephone call.

III. Targeted Response Times. With respect to Company’s Maintenance obligations, Company will use diligent, commercially reasonable efforts to respond to Notifications from Licensee relating to the Baseline Component Systems identified in Exhibit 1 in accordance with the following guidelines:

Priority One Calls –two (2) hours or less.

Priority Two Calls - four (4) hours or less.

Priority Three Calls – twenty-four (24) hours or less.

Priority Four Calls – seventy-two (72) hours or less.

Notes: (1) For purposes of these targets, a “response” will mean as an initial contact from an Company representative to Licensee to begin evaluation of the problem reported under one of the categories of calls identified above; (2) As a prerequisite to Company’s obligation to respond to Licensee, Licensee must follow the policies and procedures of Company’s ActionLine (such as the dialing of a particular phone number, the categorization of a particular problem, etc.) when submitting its Notification.