



## MEMORANDUM

December 6, 2013

**TO:** MEMBERS, PORT COMMISSION  
Hon. Doreen Woo Ho, President  
Hon. Kimberly Brandon, Vice President  
Hon. Leslie Katz  
Hon. Willie Adams  
Hon. Mel Murphy

**FROM:** Monique Moyer   
Executive Director

**SUBJECT:** Request approval of Third Amendment to Lease No. L-15169 with Autodesk, Inc. a Delaware corporation ("Autodesk") for approximately 3,400 square feet of unimproved shed space located at Pier 9, subject to approval by the Board of Supervisors

**DIRECTOR'S RECOMMENDATION:** Approve Attached Resolution

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### Executive Summary

Port staff is seeking approval of a Third Amendment to Port Lease No. L-15169 with Autodesk, Inc. a Delaware corporation ("Lease") to add approximately 3,400 square feet of unimproved Pier 9 shed space to its Premises ("Amendment") subject to approval by the Board of Supervisors. The Amendment is an expansion of Autodesk's existing premises and will be converted to laboratory space.

### I. BACKGROUND

Autodesk is an American multinational corporation that focuses on 3D design software for use in the architecture, engineering, construction, manufacturing, media and entertainment industries. Autodesk is a tenant in good standing.

On September 11, 2012 the Port Commission first approved the Lease for approximately 8,391 square feet of Pier 9 space for a term of sixty-six (66) months. At the October 23, 2012 meeting the Port Commission approved a lease amendment that added approximately 18,499 square feet making the total Premises approximately 27,190 square feet and extending the term to ten (10) years. The Board of Supervisors approved the amendment in Board of Supervisors Resolution 0007-13 and the amended Lease became effective on January 23, 2013.

**THIS PRINT COVERS CALENDAR ITEM NO. 9A**

The Lease expires on January 22, 2023. To date, Autodesk has made \$12 million in capital improvements to Pier 9 and is currently paying \$443,940.00 in annual rent net of any rent credits as provided by the Lease.

Autodesk now desires to lease additional space to accommodate its robotics research and development laboratory. Port staff and Autodesk have mutually agreed on terms and conditions contained in the proposed Amendment now before the Port Commission for approval. The Amendment adds approximately 3,400 square feet of Pier 9 shed space that is currently unimproved (i.e. un-built) and is used for passenger vehicle parking. See attached location map.

The Amendment requires Autodesk to invest a minimum of \$2,040,500 dollars in base building core and shell and tenant improvements. The project includes enclosing the site and construction of a 2,000 square foot second floor mezzanine, incorporating the new premises with the existing premises, site preparation and demolition, structural and interior upgrades to the floor slab, beams and girders, new wall enclosures, new stairs for circulation and exiting, and Americans with Disabilities compliant bathroom, new plumbing (i.e. water, sewer lines to service the premises), new heating, ventilation, and air conditioning system, new electrical service and distribution, new store fronts within the exterior roll up door openings along the south side of the pier, installing rolling doors to access the drive aisles, replacement of a portion of the steel sash windows consistent with the Secretary of the Interior Standards for the Rehabilitation of Historic Buildings, and other interior and exterior improvements. The existing parking spaces in the site area would be eliminated.

## **II. ANALYSIS**

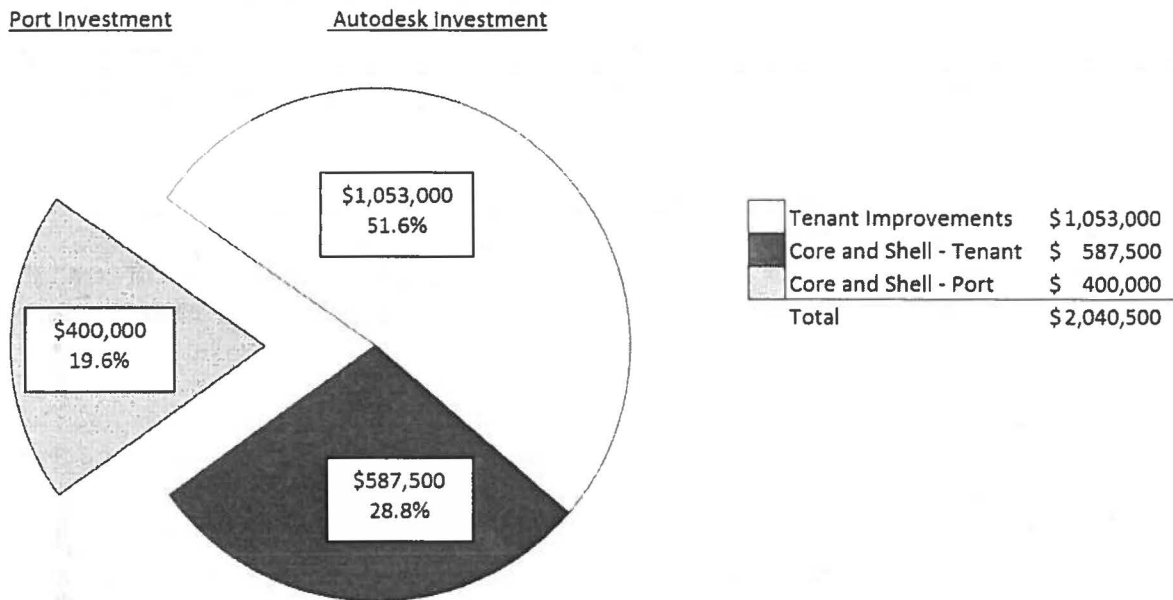
This Amendment is brought before the Port Commission because the lease term, the rent abatement period, and the amortized credit exceed the criteria found in the Commission approved business parameters. Except as noted below, all other terms and conditions, including rental rate, conform to the Port Commission's previously approved business parameter terms and conditions.

The initial monthly rent prior to rent credit deductions is \$4,590 or \$1.35 per square foot for the unimproved shed space which is slightly higher than the Port Commission parameter rental rate for FY 2013/2014 for unimproved shed space at Pier 9.

Autodesk will make a significant capital investment in Port property in the amount of approximately \$2,040,500 or \$600 per square foot for base building core and shell and tenant improvements. In consideration of this investment into Port property, the Amendment provides for a 180-day rent-abatement period in the amount of \$27,540.00 or \$8.10 per square foot for the construction of the Improvements. Section 1.5 of the Work Letter a material part of the Lease does allow the Executive Director at her sole discretion the ability to extend the time for tenant's performance including granting up to a 60-day extension to the rent abatement period. In such instances it is incumbent upon the tenant to demonstrate that Port actions contributed or caused delays to the completion of the project.

The Amendment also includes rent credits only for the base building core and shell improvements in the amount of \$400,000 that may be deducted in equal installments of \$3,704 per month starting the later of month 7 or the date the Port issues a certificate of completion for the Improvements until expiration of the term. The total rent credit equals \$118 per square foot or 19.6% of the total construction budget. The difference between Autodesk's investment and the rent abatement is \$482.14 per square foot equaling \$1,639,299 in net capital investment made directly by Autodesk into Port property or 80.4% of the total construction budget.

This chart summarizes the amount of improvements at the premises that will be funded by the Port through rent credits and improvements funded by Autodesk.



This chart summarizes the type of improvements at the premises that will be funded by rent credits.

Major Core and Shell improvements (Reimbursed by Credits)	Tenant Improvements Not Funded By Credits
ADA Bathroom	Carpet, Paint, and Wall Coverings
Wall Construction to Enclose Premise	Cabinets and Fixtures
Heating Venation and Air-conditioning	Lighting System
Fire Sprinkler System	Kitchen and Appliances
Floors	Internal Demising Walls
New Electrical and Natural Gas Service	Interior Doors and Windows
Structure Supports and Seismic Bracing	Room/Space Partitions

Assuming maximum rent credits are given, the net rent paid to the Port for the expansion premise for the lease term is shown in the table below.

Total Rents Paid	Core and Shell Credit	Total Net Rent Received
\$542,916.53	(\$400,000.00)	\$142,916.53

In the previous negotiations for this Lease, the Port and Autodesk agreed to some changes to the Port's form lease. Below is a summary of material differences between the Lease and the Port's form lease which will also apply to the Third Amendment.

- Autodesk, a multi-billion dollar corporation, not a single-asset entity, is signing the Lease. Accordingly, in lieu of a payment and performance bond generally required for construction of improvements on Port property, Port will instead receive a deposit in the form of cash or letter of credit to protect the Port if Autodesk fails to complete the Improvements (as defined in Section II of this staff report) within 180 days after commencement of the term.
- In the event Port fails to maintain and repair the exterior portions of Pier 9 (such as the roof, roof membrane, and exterior walls and doors), then Autodesk at its sole cost and expense, is permitted to make repairs to the exterior portions of the Pier 9 facility with Port's prior consent.
- The standard language in the Port's form lease does not allow a tenant that may be displaced by damage and destruction any right to re-lease its premises following repairs therefor. The Lease provides Autodesk with a right of first offer to re-lease the premises following damage and destruction to its premises or to Pier 9.
- This Lease includes a modification to the definition of Habitual Late Payer (reflected in italics) to mean tenant has received (a) at least two (2) notices of *material* monetary default, or (b) at least three (3) notices of *any material non-monetary default* within a twelve (12) month period. In exchange for modifying the definition, if Autodesk is deemed to be Habitual Late Payer, Autodesk will be obligated to pay rent in advance on a quarterly basis.
- This Lease does not provide Port with an option to recapture any proposed sublease area if Autodesk requests Port's consent to a sublease. All other sublease provisions remain unchanged.
- Other than Autodesk's indemnification obligations related to hazardous materials and hold over obligations, neither Port nor Autodesk is liable for any indirect, consequential, special, exemplary, incidental or punitive damages arising from the Lease.
- Port has no unilateral right to terminate in connection with Port development projects.
- This Lease provides that monthly rent for holding over after expiration of the term with Port consent will be increased by 125%; and without Port consent, by 150%.
- This Lease provides for a 5% default interest rate.
- This Lease includes a unilateral right for Autodesk to terminate until the last day of the sixtieth-month (60th) of the Lease without penalty provided that it

completes all required improvements; Autodesk will not have rights to any unamortized or outstanding rent credits if it terminates.

**III. CLIMATE CHANGE**

The original Autodesk lease was built to a LEED Platinum standard. The Phase 1 office was the Port's first LEED Platinum Commercial Interior (CI) project. The proposed Third Amendment will also be built to a LEED Platinum standard and shall include proposed solutions to reduce negative environmental impacts of the building operations. Areas to address are: installation of a roof top solar voltaic system to reduce Green House Gas ("GHG") emissions, installation of electric vehicle charging stations, providing car and bike share facilities, limits on idling vehicles and other such measures as prudently practical.

**IV. AMENDMENT TERMS**

<b><i>Tenant:</i></b>	Autodesk, Inc. a Delaware corporation
<b><i>Lease Number:</i></b>	L-15169
<b><i>Expanded Premises:</i></b>	Approximately 3,400 square feet of unimproved shed space located at Pier 9.
<b><i>Lease Commencement Date:</i></b>	Upon approval by Board of Supervisors
<b><i>Rent Commencement Date:</i></b>	One-Hundred Eighty (180) days after the Commencement Date
<b><i>Lease Expiration Date:</i></b>	January 22, 2023
<b><i>Initial Monthly Rent:</i></b>	\$4,590.00
<b><i>Rent Adjustment</i></b>	3% increase on each anniversary of the Rent Commencement Date.
<b><i>Use:</i></b>	Research and development office and work space
<b><i>Tenant Improvements:</i></b>	No less than \$2,040,500 of core and shell and tenant improvements, including a one hour fire rated common corridor from the interior pier shed drive aisle to the south apron, within 180 days of the Commencement Date
<b><i>Bar Pilots Gate:</i></b>	As part of the Tenant Improvements, Tenant, at its sole cost and expense, must reconfigure the Bar Pilots access gate. Tenant is required to provide a letter from the Bar Pilots agreeing to the gate reconfiguration prior to Port's execution of the Amendment.
<b><i>Rent Abatement Period:</i></b>	180 days (can be extended by an additional 60 days by Executive Director)

<b>Rent Credit:</b>	Tenant shall receive a maximum rent credit in the amount of \$400,000.00 that may be deducted from the monthly rent starting the later of month 7 or the date Port issues a certificate of completion for the Improvements until expiration of the term. Rent credits are only for core and shell improvements and are contingent on the completion of the Improvements.
<b>Performance Bond:</b>	In lieu of a payment and performance bond generally required for construction of improvements on Port property, Port will instead receive a deposit in the form of cash or letter of credit to protect the Port if Autodesk fails to complete the Improvements (as defined in Section II of this staff report) within 180 days after commencement of the term.
<b>Security Deposit:</b>	Tenant shall add to its existing Security Deposit to equal to two (2) month's total Base Rent due in the last year of Lease.
<b>As Is:</b>	The Expanded Premises shall be accepted in its "as is" condition.
<b>Insurance:</b>	Tenant shall provide standard insurance coverage acceptable to Port and City Risk Manager.
<b>City Requirements:</b>	The Amendment will include updated City and Port requirements.

## **VI. RECOMMENDATION**

Port staff recommends that the Port Commission approve the attached Resolution approving the Third Amendment to Lease No. L-15169 with Autodesk, Inc. a Delaware corporation, for additional premises located at Pier 9 on such additional terms and conditions as described in this staff report, subject to Board of Supervisors' approval.

Prepared by: Jeffrey A. Bauer, Senior Leasing Manager

For: Susan Reynolds, Director of Real Estate