

## **SUPPLEMENTAL AGENDA MATERIAL for Supplemental Packet 1**

**Meeting Date:** February 11, 2025

**Item Number:** 8

**Item Description:** 2009 Leases Audit Follow-Up: Berkeley Faces the Same Risks  
16 Years Later

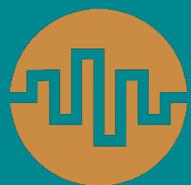
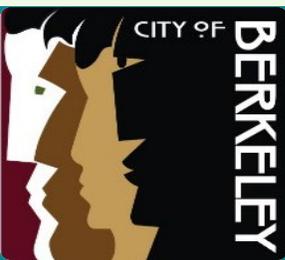
**Submitted by:** Jenny Wong, City Auditor

This supplemental item is the presentation which will be shared with the City Council and the public alongside the City Auditor's remarks.

# 2009 Leases Audit Follow-Up: Berkeley Faces the Same Risks 16 Years Later

Berkeley City Council Meeting  
February 11, 2025

Jenny Wong, City Auditor



BERKELEY CITY AUDITOR



# 2009 Leases Audit Follow-Up: Berkeley Faces the Same Risks 16 Years Later

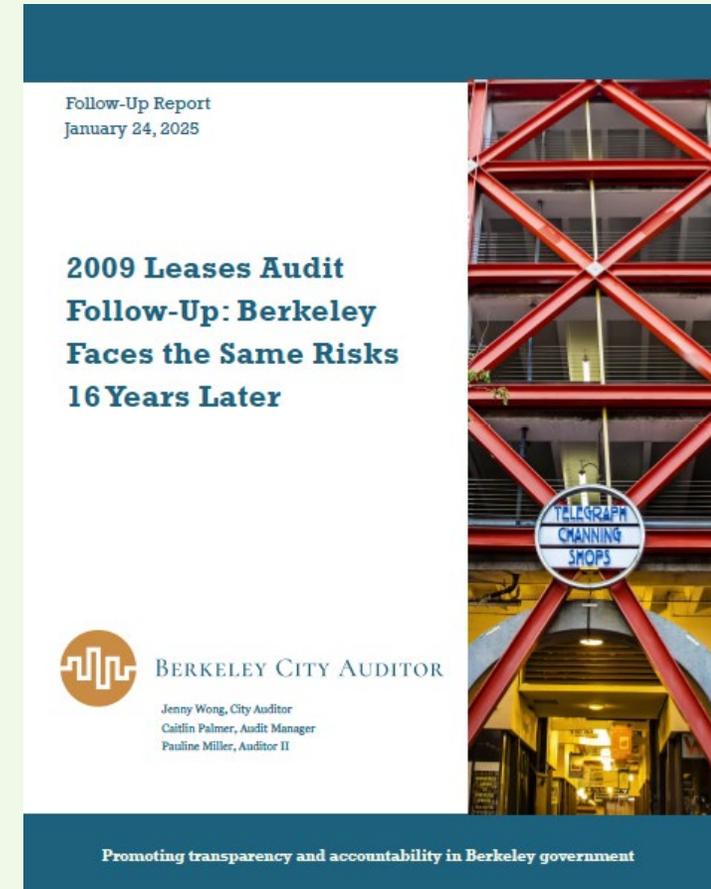
## Overview

- Why we did this follow-up report
- Objectives
- Background on City leases and licenses
- Findings
- Recommendations & implementation guidance
- Management response



## Why we did this follow-up work:

- The City never implemented 7 out of 24 recommendations from the 2009 Leases Audit.
- The status of some implemented recommendations may have changed over time.



BERKELEY CITY AUDITOR

# Objectives, Scope, and Methodology:

## Objectives:

- Assess the implementation status of recommendations from the 2009 audit of city leases.
- Identify risks to the City associated with lease management.

**Audit Scope:** we conducted a risk assessment and selected 8 recommendations to follow up on.

## Methodology:

- Policy review
- Documentation review
- Interviews with City staff



# Background on City Leases and Licenses

## The City rents space through lease and license agreements

	Type of rental agreement	Estimated count*	Description highlights
	Lease agreement	At least 49	<ul style="list-style-type: none"><li>• Typically exclusive use</li><li>• Longer terms</li><li>• May require eviction proceedings to end the agreement</li></ul>
	License agreement	At least 8	<ul style="list-style-type: none"><li>• Typically non-exclusive use</li><li>• Shorter terms</li><li>• Simpler process for ending the agreement</li></ul>

Sources: Department of Public Works, City Attorney's Office, University of California Santa Cruz Website

\*Count is estimated because the City does not currently have a complete list of rental agreements.



BERKELEY CITY AUDITOR

# Examples of City-owned buildings leased or licensed to outside entities.

Image 1. Old City Hall



Source: City of Berkeley

Image 2. Telegraph Channing Mall



Source: City of Berkeley



BERKELEY CITY AUDITOR

## What we found:

**Finding 1: The City lacks a clear approach to lease management.**

Finding 2: The City's lease policy does not accurately reflect its actual practices.

Finding 3: There is no complete central inventory of lease and license agreements.



## The City did not follow through on efforts to centralize lease management and lacks a clear approach.



The staffing model for lease management has changed since the original audit was published.



The Real Property Administrator position was eliminated in FY 2014.



Limited staff capacity and lack of clear direction impact the City's ability to stay on top of leases.



## Recommendations and guidance for implementation:

Original recommendation	Guidance for implementation
1.1, 1.2: Formalize the division of lease management responsibilities and establish the role of real property staff.	Define roles and responsibilities for lease management with written direction, and work with departments managing leases to identify staffing needs.
1.5: Communicate a property management plan with all affected City Departments.	Request resources to develop a property management plan.



## What we found:

Finding 1: The City lacks a clear approach to lease management.

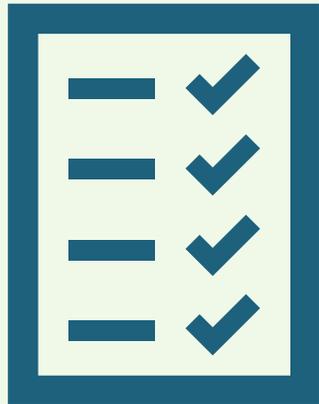
**Finding 2: The City's lease policy does not accurately reflect its actual practices.**

Finding 3: There is no complete central inventory of lease and license agreements.

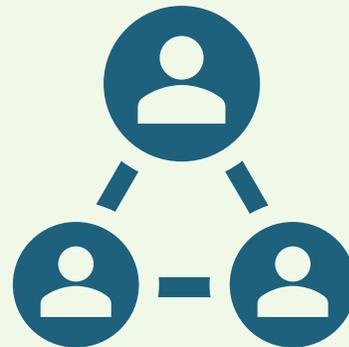


The City's lease policy does not align with its actual practices, leading to variances in agreements.

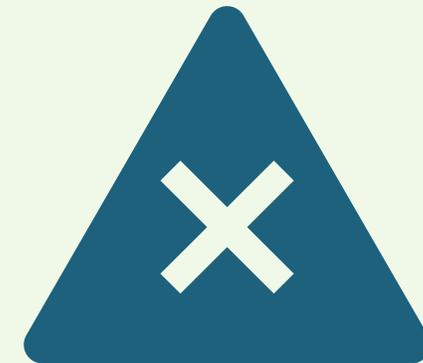
The City's lease policy is Administrative Regulation (AR) 6.6.



AR 6.6 assigns oversight of the lease process to the Public Works Department.



Public Works is not always consulted in the process of establishing leases.



The City's lease policy does not align with its actual practices, leading to variances in agreements.



The City lacks guidance for **establishing below market rate** leases or when to **lease versus license** City-owned property.



Without clear policies and procedures for developing rental agreements, **terms may vary significantly** and the process could result in **actual or perceived unfairness**.



## Recommendations and guidance for implementation:

Original recommendation	Guidance for implementation
2.1: Update AR 6.6 and Contracts Online to give clear direction on administration and execution of lease agreements.	Revise AR 6.6 to reflect an agreed upon process for administration and execution of lease and license agreements. Include guidance for ensuring lease and license terms follow consistent practices. Link to AR 6.6 in Contracts Online.



## What we found:

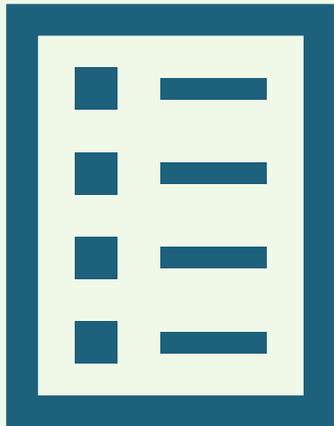
Finding 1: The City lacks a clear approach to lease management.

Finding 2: The City's lease policy does not accurately reflect its actual practices.

**Finding 3: There is no complete central inventory of lease and license agreements.**



The City lacks a complete central list of leases and licenses needed for effective management.



The City's master list of leases was missing the following:

- Lease **agreements**, including some leases managed by HHCS.
- Details such as **property location, contract numbers, start and end dates, and rent amounts.**
- Details on responsibility for covering **utilities and maintenance costs.**



The City lacks a complete central list of leases and licenses needed for effective management.



Risks of no complete list of leases include:

- Limited ability to assess **costs and benefits** of renting.
- **Losing track** of property, ex. 1890 Alcatraz.
- **Financial loss or service disruption** for leases in holdover.



## Recommendations and guidance for implementation:

Original recommendation	Guidance for implementation
4.1, 4.3, 4.4: Determine information needed for a central repository of lease information including relevant details and make the list available to City staff.	Meet with staff to determine information needed, develop a schedule for updating this information and confirm responsibility for updating the inventory. Additionally, work with departments to determine a central location for the inventory.
8.2: Determine if existing systems can be used for a list of City leases.	Assess the need for a new lease management system.



# Management Response

City management and the Department of Public Works agreed with our audit findings, re-opened recommendations, and guidance for implementation. The Department of Public Works provided an action plan to meet our suggested guidance for implementation.



*We would like to thank the Department of Public Works and the City Manager's Office for their cooperation with this follow up report.*

