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1 SECTION 1. A NEW SECTION OF LAW IS HEREBY ADDED TO THE
2 REVISED ORDINANCES OF ALBUQUERQUE, CHAPTER 2, ARTICLE 11, AS
3 FOLLOWS:

4 § 2-11-18 Indirect Overhead Charges to Capital Funds

5 (A) Purpose. To ensure that charges to capital project funds for indirect
6 overhead (IDOH) are reasonable, transparent, and tied to capital project
7 delivery costs.

8 (B) Definitions.
9 Indirect Overhead (IDOH): Costs not directly attributable to a specific capital
10 project but necessary to support project delivery (e.g., project management,
11 procurement, and fiscal oversight).

12 CIP: The Capital Implementation Program.

13 CPI-U: The Consumer Price Index for All Urban Consumers, as published by
14 the U.S. Bureau of Labor Statistics.

15 (C) IDOH Rate Cap. The IDOH rate assessed by the Department of
16 Administration and Finance (DFAS) and/or the Department of Municipal
17 Development Capital Improvement Program (DMD/CIP) to capital funds shall
18 not exceed the lesser of:

- 19 (1) 4.75%, or
- 20 (2) An annual increase equal to the percentage change in the CPI-U (12-
21 month average ending January 1 of each year).
- 22 (3) A higher rate may only be applied if:
 - 23 (a) A written justification is submitted to City Council;
 - 24 (b) A cost allocation plan is provided;
 - 25 (c) City Council approves the higher rate during the budget adoption
26 process.

27 (D) Allowable Charges. Only staff and functions directly related to the
28 planning, design, implementation, execution, and construction oversight of
29 capital projects may be included in IDOH.

- 30 (1) Functions excluded from IDOH billing include:
 - 31 (a) Human Resources, Legal, or Payroll unless directly assigned to
32 CIP;
 - 33 (b) Executive administrative functions;

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1 (c) General departmental planning or policy roles not tied to specific
2 projects.

3 (2) Public Safety Restriction. No IDOH charges shall be assessed to
4 support the operations, personnel, or administrative overhead of any Public
5 Safety Department, including but not limited to the Albuquerque Police
6 Department (APD), Albuquerque Fire Rescue (AFR), Albuquerque Community
7 Safety (ACS), or any future reorganized entities that serve primarily a public
8 safety function.

9 (3) IDOH shall not be charged, assessed, encumbered, or otherwise applied
10 to capital funds for the acquisition of equipment, vehicles, materials, or
11 furnishings, regardless of whether such items are associated with or used in
12 support of a capital project.

13 (a) Fiscal, accounting, or financial management positions may be
14 included in Indirect Overhead (IDOH) only if the employee's duties are
15 primarily and directly dedicated to supporting the City's Capital
16 Implementation Program.

17 (b) Fiscal or financial staff supporting non-CIP capital activities,
18 operating programs, or general departmental functions shall not be eligible for
19 IDOH recovery.

20 (c) Inclusion of such positions shall require documentation
21 demonstrating:

- 22 (i) The specific CIP-related functions performed;
- 23 (ii) The percentage of time allocated exclusively to CIP
24 activities; and
- 25 (iii) That the position is not performing general departmental,
26 citywide, or operating budget functions.

27 (E) Annual Reporting. No later than March 1 of each fiscal year, DFAS
28 and/or DMD shall provide to the City Council:

- 29 (1) A detailed IDOH rate calculation;
- 30 (2) A list of IDOH funded positions across all departments and their
31 percentage allocations to capital;
- 32 (3) A reconciliation of prior year projections to actual expenditures.

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1 (4) The final IDOH rate and supporting documentation shall be
2 published on the City’s capital transparency website.

3 (F) Oversight. The City Council retains the authority to modify or reject the
4 proposed IDOH rate as part of the annual Budget adoption. The Office of
5 Internal Audit or Inspector General may review IDOH practices for compliance
6 with this section.

7 (G) Controls on Department Charges to Councilor Capital Activities.

8 (1) No department may submit journal entries (JEs), journal vouchers
9 (JV’s) labor recovery adjustments, or invoices transferring costs to any
10 Councilor capital activity (Fund 305 or otherwise) without:

11 (a) Prior written approval from the Council Services Fiscal Manager
12 or their designee confirming the request is appropriate and within the
13 budgeted scope of the project as approved by the Councilor’s office; and

14 (b) Final approval from Council Services staff within the City’s
15 financial system of record (e.g., PeopleSoft or any successor platform) before
16 the transaction is processed.

17 (2) Administrative or supervisory costs related to internal departmental
18 coordination, work review, or supervision of capital-related activities shall not
19 be charged to Councilor capital activities when the department is already
20 recovering those costs through IDOH or other indirect mechanisms.

21 (3) Any such charges made without prior approval or in violation of this
22 section shall be reversed within 30 days of notice from the Council Services
23 Fiscal Manager, or their designee.

24 (4) All departments must document and submit their cost recovery
25 methodology for Councilor-funded projects upon request, including how
26 administrative costs are treated and to which accounts they are charged.

27 (H) Application of Indirect Overhead.

28 (1) IDOH may only be applied to eligible capital project costs as defined
29 in this ordinance section (§ 2-11-18). IDOH shall not be automatically applied
30 based solely on the use of a capital fund and shall not be applied to ineligible
31 costs, including equipment purchases. For purposes of this section, the
32 application of IDOH includes any charge or reservation of funds, whether by
33 expenditure, encumbrance, or other accounting entry.

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1 (2) IDOH associated with a capital project shall be calculated and
2 applied based on the IDOH rate in effect during the fiscal year in which the
3 project first incurs eligible capital expenditures. IDOH rates adopted in
4 subsequent fiscal years shall not be applied retroactively to prior-year
5 encumbrances, purchase orders, or project authorizations.

6 (3) For multi-year capital projects, IDOH shall only be applied
7 prospectively to eligible expenditures incurred in the fiscal year in which the
8 expenditure occurs and shall be the lesser of the IDOH rate in effect when the
9 project first incurred eligible capital expenditures or the IDOH rate in effect at
10 the time the expenditure is incurred.

11 (l) Notwithstanding any provision to the contrary, the BioPark GRT Fund
12 shall not be subject to an indirect overhead rate exceeding five percent (5%)
13 through Fiscal Year 2031, consistent with the Memorandum of Understanding
14 titled “Memorandum of Understanding Between the BioPark Society and the
15 City of Albuquerque Related to Mutual Support of BioPark GRT Fund,”
16 executed and effective as of June 24, 2025. The terms of said agreement shall
17 guide the treatment of indirect overhead charges for all applicable BioPark
18 capital projects during the life of the agreement.

19 **SECTION 2. SEVERABILITY.** If any section, paragraph, sentence, clause, or
20 phrase of this Ordinance is held to be invalid or unconstitutional, such
21 decision shall not affect the remaining portions.

22 **SECTION 3. EFFECTIVE DATE.** This Ordinance shall become effective
23 immediately upon publication. The provisions of this new ordinance shall apply
24 retroactively to July 1, 2025, the beginning of Fiscal Year 2026. Any amounts
25 charged to capital funds for indirect overhead in excess of the allowable cap
26 shall be reversed or refunded through a budget adjustment and reported to the
27 City Council no later than February 1, 2026.

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