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1 BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF
2 ALBUQUERQUE:

3 SECTION 1. A new Section 18 is hereby adopted in Chapter 2, Article 11 of
4 the Revised Ordinances of Albuquerque, 1994 as follows:

5 § 2-11-18 Indirect Overhead Charges to Capital Funds

6 (A) PURPOSE AND FINDINGS.

7 (1) In FY15 the rate of IDOH was 1.93%. In FY19 & FY20 the IDOH rate rose
8 to 2.26%. In FY24 the IDOH rate dropped to 1.04%. In FY25 the rate was
9 calculated at least twice, once at 2.75%, then later at 4.75%. In FY26 the rate of
10 IDOH is 8%. The criteria for calculation of IDOH for FY25 and FY26 have not
11 been disclosed raising concerns about compliance with state and federal
12 guidance and the appropriate use of capital dollars.

13 (2) In June 2019 the City Office of Internal Audit released a Strategic Review
14 (Report 19-304) that examined Capital implementation Plan Labor Recovery
15 and recommended that the City “Review labor recovery recorded to projects
16 funded by bond proceeds to ensure use is appropriate relative to the cost
17 associated with providing the service.”

18 (3) The City Council hereby finds that because criteria for the calculation of
19 IDOH have not been publicly disclosed and questions remain regarding the
20 allocation, calculation, and recording of labor costs for capital projects, it is
21 necessary to establish policies to govern the processes of both the IDOH rate
22 calculation and the cost allocation of labor to capital projects.

23 (B) DEFINITIONS.

24 *CIP*: The Capital Implementation Division of the Department of Municipal
25 Development (DMD) which includes individuals assigned to the DMD Fiscal
26 Division who are tasked with the accounting and oversight of the use of
27 capital funds.

28 *CAPITAL IMPROVEMENTS/PROJECTS*: Projects that design, construct,
29 renovate, rehabilitate, or otherwise improve facilities. These facilities, and
30 improvements shall last or exceed the life of the associated bond.

31 *CIP RECOVERED LABOR COSTS or LABOR*: The documented cost of labor
32 that is attributed directly to the design and/or construction of CIP capital
33 projects.

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1 **GENERAL OBLIGATION BONDS (GO BONDS):** Tax exempt municipal bonds
2 authorized by the US-Congress, voted for by the public, and adopted by the
3 Albuquerque City Council for the purpose of financing capital improvements
4 that will last at least the length of the bond repayment schedule. The City
5 plans, votes, and implements the general obligation bond program of capital
6 improvements in a two-year cycle, not in a fiscal year cycle.

7 **CAPITAL PROGRAM (CIP) INDIRECT OVERHEAD (IDOH):** Limited necessary
8 costs associated with the administration and implementation of capital
9 projects (e.g., project management, procurement, and fiscal oversight).

10 **IDOH CALCULATION:** IDOH calculated in the year following the bond election
11 and applied to the two-year cycle. The calculated rate of IDOH shall be applied
12 to all eligible capital projects regardless of funding source for the entire bond
13 cycle. Since IDOH calculations are estimates, estimated actuals from the
14 previous cycle should be produced to inform the new IDOH calculations.

15 **IDOH CRITERIA.** Administrative functions and/or costs that may be used to
16 calculate IDOH.

17 **(C) IDOH RATE CALCULATION.**

18 (1) It is the policy of the City of Albuquerque that the Indirect Overhead
19 (IDOH) rate applied to capital improvements/projects shall be set at a baseline
20 rate of 2.75 percent (2.75%), unless an alternative rate is justified pursuant to
21 the criteria established in this section and approved by the City Council.

22 (2) If the Administration determines that an alternative IDOH rate is
23 necessary, the City’s Department of Finance, Treasury, and DMD/CIP shall
24 calculate the proposed rate using the criteria established in this section. The
25 proposed rate and supporting documentation shall be submitted to the City
26 Council by Executive Communication for review and approval.

27 (3) If the City Council rejects the proposed IDOH rate submitted pursuant to
28 this section, the Administration shall submit a revised calculation to the City
29 Council within thirty (30) days. Until such time as a revised rate is approved by
30 the City Council, the IDOH rate applied to capital projects shall not exceed 2.75
31 percent (2.75%).

32 (4) Beginning in 2026, the FY26 IDOH shall be recalculated within 60 days
33 of the enactment date of this ordinance. Beginning with the 2027 bond cycle,

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1 the rate of IDOH shall be calculated by January 31 of the year following every
2 bond election. The calculated rate shall apply to the two-year bond cycle. The
3 rate shall be calculated solely based on the criteria below related to costs
4 associated with administration of the capital program.

5 (5) IDOH Criteria shall include:

6 (a) The cost of the entire DMD CIP Division.

7 (b) Verified labor hours for DMD Fiscal Division staff assigned to
8 accounting and oversight of capital improvement funds.

9 (c) Verified labor hours for Parks and Recreation Department
10 construction crews assigned to construct, or inspect the construction of,
11 approved and adopted capital projects.

12 (d) Both DMD and the Parks and Recreation Department employ
13 professional engineers, architects, and landscape architects. Verified labor
14 hours may be recovered for these professionals provided they are responsible
15 for oversight of design or construction of capital projects, or for direct
16 supervision of contracted design professionals working on capital projects.

17 (e) Verified labor hours for the City’s attorney(s) assigned to
18 negotiate, review, and recommend capital improvement related contracts,
19 including attorneys in the City Legal department and any outside counsel
20 contract attorneys.

21 (f) Verified labor hours for the Purchasing Division staff for
22 processing capital improvement purchase orders.

23 (g) Costs associated with preparation and sale of the voter approved
24 and adopted bonds.

25 (6) Criteria that shall not be included:

26 (a) DMD Construction Services staff or inspectors shall not be
27 included in the IDOH calculation criteria unless an inspector is assigned full-
28 time as a professionally experienced construction inspector on a voter
29 approved and adopted capital project.

30 (b) Human Resources, Legal, or Payroll, unless directly assigned to
31 the CIP or Fiscal Division of DMD or described in Subsection (C)(5) above.

32 (c) Executive administrative functions regardless of relationship to
33 CIP Capital projects.

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1 (d) Fiscal or Financial staff supporting non-CIP capital projects.

2 (e) General departmental planning or policy roles not directly
3 associated with specific capital projects.

4 (f) Equipment, furnishings, and vehicles shall not be included, nor
5 shall they be recovered from the capital project regardless of whether such
6 items are associated with or used in support of a capital project.

7 (g) Routine maintenance or general operating costs regardless of
8 whether the work is associated with or used in support of a capital project.

9 (D) OVERSIGHT. The City Council retains authority to reject the proposed
10 IDOH rate. The Office of Internal Audit shall review regularly IDOH practices
11 for compliance with this section.

12 (E) APPLICATION OF INDIRECT OVERHEAD.

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

19 (2) IDOH associated with a capital project shall be calculated and applied
20 based on the IDOH rate determined by January 31 of the year following the
21 bond election.

22 (3) New calculated IDOH rates shall not be applied retroactively to previous
23 bond cycles.

24 (F) CONTROLS ON DEPARTMENT CHARGES TO COUNCILOR CAPITAL
25 ACTIVITIES.

26 (1) No expenditure that would cause a project to exceed its approved
27 budget shall be incurred or processed without prior approval from the
28 appropriate Councilor or designated Council Services staff. Departments
29 shall provide Council Services with timely notice of project expenditures and
30 remaining balances for all Councilor-initiated and funded capital activities.

31 (2) No department may submit any instrument that recovers labor or
32 transfers cost to any Councilor's capital activity account (Fund 305 or
33 otherwise) without:

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

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

7 (3) No additional administrative costs outside of calculated CIP IDOH shall
8 be charged to Councilor approved capital improvement activities.

9 (4) Any such charges made without prior approval or that are in violation of
10 this section shall be reversed within 30 days of notice from the Council
11 Services Financial Manager, or their designee.

12 (G) REPORTING. No later than January 31 of the year following the bond
13 election, the City’s DMD/CIP Division shall provide to the City Council via
14 Executive Communication, per Subsection (C)(2) above:

- 15 (1) A detailed IDOH rate calculation;
- 16 (2) A list of IDOH funded positions across all departments and their
17 percentage allocations to voter-approved and City-adopted capital
18 improvements;
- 19 (3) A reconciliation of prior year projections to actual expenditures; and
- 20 (4) The final IDOH rate and supporting documentation shall be published
21 on the City’s capital transparency website.

22 SECTION 2. SEVERABILITY. If any section, paragraph, sentence, clause,
23 word or phrase of this Ordinance is for any reason held to be invalid or
24 unenforceable by any court of competent jurisdiction, such decision shall
25 not affect the validity of the remaining provisions of this Ordinance. The
26 Council hereby declares that it would have passed this Ordinance and each
27 section, paragraph, sentence, clause, word or phrase thereof irrespective
28 of any provision being declared unconstitutional or otherwise invalid.

29 SECTION 3. COMPILATION. SECTION 1 of this Ordinance amends, is
30 incorporated in, and is to be compiled as part of the Revised Ordinances of
31 Albuquerque, New Mexico, 1994.

32 SECTION 4. EFFECTIVE DATE. This Ordinance takes effect five days after
33 publication by title and general summary.