

O. 2026. 010

CITY OF ALBUQUERQUE
CITY COUNCIL

INTEROFFICE MEMORANDUM

TO: Timothy M. Keller, Mayor

FROM: Isaac Padilla, Director of Council Services

YMN / For
IEP

SUBJECT: Transmittal of Legislation

Transmitted herewith is Bill No. C/S O-26-3 Amending Chapter 2, Article 11 Of The Revised Ordinances Of Albuquerque, New Mexico (ROA 1994), To Add A New Section Regulating Indirect Overhead (IDOH) Charges To Capital Funds Establishing An IDOH Rate Calculation; Requiring Reporting And Transparency; And Aligning Eligible Uses With Capital Delivery Standards (Baca, Rogers, Champine, Bassan), which was passed at the Council meeting of April 6, 2026, by a vote of 8 FOR AND 1 AGAINST.

For: Baca, Bassan, Champine, Fiebelkorn, Grout, Lewis, Rogers, Telles
Against: Peña

In accordance with the provisions of the City Charter, your action is respectfully requested.

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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 21 is hereby adopted in Chapter 2, Article 11 of
4 the Revised Ordinances of Albuquerque, 1994 as follows:

5 § 2-11-21 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
8 rose 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
14 Review (Report 19-304) that examined Capital Implementation Plan Labor
15 Recovery and recommended that the City “Review labor recovery recorded to
16 projects funded by bond proceeds to ensure use is appropriate relative to the
17 cost associated with providing the service.”

18 (3) The City Council hereby finds that because criteria for the
19 calculation of IDOH have not been publicly disclosed and questions remain
20 regarding the allocation, calculation, and recording of labor costs for capital
21 projects, it is necessary to establish policies to govern the processes of both
22 the IDOH rate 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
32 labor 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
28 pursuant to this section, the Administration shall submit a revised calculation
29 to the City Council within thirty (30) days. Until such time as a revised rate is
30 approved by the City Council, the IDOH rate applied to capital projects shall
31 not exceed 2.75 percent (2.75%).

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

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1 cycle, the rate of IDOH shall be calculated by January 31 of the year following
2 every bond election. The calculated rate shall apply to the two-year bond
3 cycle. The rate shall be calculated solely based on the criteria below related to
4 costs 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 conduct an annual audit of IDOH
11 practices to ensure compliance with this section, including review of the
12 calculation of the IDOH rate, allocation of costs, adherence to the criteria and
13 requirements established herein, and whether costs charged are consistent
14 with the approved scope of capital projects, and shall report its findings to the
15 City Council.

16 (E) APPLICATION OF INDIRECT OVERHEAD.

17 (1) IDOH may only be applied to eligible capital project costs as defined
18 in this Ordinance section § 2-11-21. IDOH shall not be automatically applied
19 based solely on the use of a capital fund and shall not be applied to ineligible
20 costs, including equipment purchases. For purposes of this section, the
21 application of IDOH includes any charge or reservation of funds, whether by
22 expenditure, encumbrance, or other accounting entry.

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

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

28 (F) CONTROLS ON DEPARTMENT CHARGES TO COUNCILOR CAPITAL
29 ACTIVITIES.

30 (1) No expenditure that would cause a project to exceed its approved
31 budget shall be incurred or processed without prior approval from the
32 appropriate Councilor or designated Council Services staff. Departments shall

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1 provide Council Services with timely notice of project expenditures and
2 remaining balances for all Councilor-initiated and funded capital activities.

3 (2) No department may submit any instrument that recovers labor or
4 transfers cost to any Councilor’s capital activity account (Fund 305 or
5 otherwise) without:

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

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

12 (3) No additional administrative, indirect, or overhead costs, including
13 but not limited to labor recovery, supervisory, or coordination outside of the
14 calculated CIP IDOH rate for the applicable bond cycle shall be charged,
15 transferred, or otherwise applied to Councilor approved GO Bond or State
16 Capital Outlay activities, and all costs charged shall be directly related to and
17 consistent with the approved scope of the capital project.

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

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

- 24 (1) A detailed IDOH rate calculation;
- 25 (2) A list of IDOH funded positions across all departments and their
26 percentage allocations to voter-approved and City-adopted capital
27 improvements;
- 28 (3) A reconciliation of prior year projections to actual expenditures; and
- 29 (4) The final IDOH rate and supporting documentation shall be
30 published on the City’s capital transparency website.

31 SECTION 2. SEVERABILITY. If any section, paragraph, sentence, clause,
32 word or phrase of this Ordinance is for any reason held to be invalid or
33 unenforceable by any court of competent jurisdiction, such decision shall

1 not affect the validity of the remaining provisions of this Ordinance. The
2 Council hereby declares that it would have passed this Ordinance and each
3 section, paragraph, sentence, clause, word or phrase thereof irrespective
4 of any provision being declared unconstitutional or otherwise invalid.

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

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

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1 PASSED AND ADOPTED THIS 6th DAY OF April, 2026
2 BY A VOTE OF: 8 FOR 1 AGAINST.

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4 For: Baca, Bassan, Champine, Fiebelkorn, Grout, Lewis, Rogers, Telles

5 Against: Peña

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Klarissa J. Peña, President
10 City Council

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15 APPROVED THIS _____ DAY OF _____, 2026

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18 Bill No. C/S O-26-3

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Timothy M. Keller, Mayor
23 City of Albuquerque

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26 ATTEST:



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Ethan Watson, City Clerk

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City of Albuquerque

Office of the City Clerk

Timothy M. Keller, Mayor

Ethan Watson, City Clerk

Interoffice Memorandum

April 21, 2026

To: CITY COUNCIL

From: Ashley Santistevan, Assistant City Clerk

Subject: BILL NO. O-26-3; ENACTMENT NO. O-2026-010

I hereby certify that on April 20, 2026, the Office of the City Clerk received Bill No. O-26-3 as signed by the president of the City Council, Klarissa J. Pena. Enactment No. O-2026-010 was passed at the April 6, 2026 City Council meeting. Mayor Keller did not sign the approved Ordinance within the 10 days allowed for his signature and did not exercise his veto power. Pursuant to the Albuquerque City Charter Article XI, Section 3, this Ordinance is in full effect beginning May 6, 2026 without Mayor's approval or signature. This memorandum shall be placed in the permanent file for Bill No. O-26-3.

Sincerely,

Ethan Watson
City Clerk