

HOA Capital Improvement Projects and Costly Management Company Add-on and Oversight Fees

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Contracts issued to vendors to complete HOA capital improvement projects should consider the total cost of the project that includes: fees for an expert to complete planning, analysis and specifications (project justification and project plan); direct payments to contractors; and any HOA property management company (PMC) or professional services in overseeing the project.

When a capital improvement project is complex and a Board feels they need added expertise prior to embarking on the project they may hire an expert consultant(s). The consultant will be chartered to develop a project plan that addresses a needs assessment, planning, analysis, design, development and implementation of the project and related cost projections and quality control measures. This service will provide the Board with the criteria to proceed with contract award and used by any oversight services (consultant) to ensure goals and objectives are met.

Contract award for complex capital improvement projects will normally involve the HOA's PMC. The PMC will help with developing the solicitation for work and award of contract. This is generally part of the PMC's assignments under the contract with the HOA. All contracts awarded must have stringent definitions of work to be performed, timelines, quality control and accountability with agreed to progress payment clauses. The pre-project planning consultant's report is used as a basis for developing and awarding a contract.

HOA Boards must budget for the total cost of the project to also include any proposed project oversight fees suggested by the PMC. Boards should apprise homeowners of the total cost and separately list: pre-project planning services, contractor costs and oversight costs (noting who performed oversight services and how much). Boards must evaluate the cost of using the PMC's services vs that of an outside professional consultant (this pertains to pre-project planning services and project oversight assessments). This fee can add between four to up to ten percent of the total cost awarded to the vendor. A few questions must be asked by the Board: 1) if the vendor/contractor has their own supervisory oversight why should an HOA pay a PMC to supervise the work of the vendor's supervisor? 2) What exactly will the oversight cost bring in the way of benefit to the HOA? 3) Is the HOA vulnerable to risk without oversight? 4) should the PMC be suggesting oversight (which is fine) and completing the oversight work which raises questions about their independence and motive? 5) there will be a level of project oversight and quality control completed by the county government in issuing a building permit with strict requirements and during and at the end of the project. so why the PMC or other oversight? Considering the work of the county can any suggested oversight fees/work be lessened in scope? 6) if the PMC completes the oversight will that person spend time on sight and has in-depth knowledge of the scope and intricacies of how the work is to be completed or simply involve the current PMC or company representative without or with very little

experience in the task at hand? If so why of are they needed? 7) would the cost of a professional building inspector/project manager from private industry be much less costly and ensure knowledge, skills and abilities than the PMC oversight fee? 8) Boards must solicit proposals for oversight and get a defined list services and tasks to be performed to include progress reports.

One defense against PMC padding capital improvement project costs for homeowners outside of relying on an HOA Board is to bring back licensing of PMCs with a rule addressing any abuse and conflict of interest. A rule would require any involvement of a PMC in receiving oversight compensation first be justified by need to a Board in writing; a possible cap on the amount assessed; evidence that PMC oversight costs were compared to that of a professional project manager; any PMC project oversight services must be performed by someone who has experience, knowledge and abilities; and assurance that any contract award for oversight services must not include a vendor associated with the PMC. The previous licensing Bill was littered with loopholes and lack of accountability and did not address PM oversight charges on capital projects: a new licensing proposal is currently under review for legislative approval.

Large, costly capital improvement projects can benefit from independent oversight (outside of the Board). Boards must discuss the cost-benefit, risk mitigation and need for such oversight and options to completing this task. Boards must ensure that whomever takes on the quality control position of oversight and project management for the project is skilled in the work to be completed and that such a person provides the Board with their plan and quality control procedures and progress reports. A PMC is involved in an advisory position to the Board (and most PMCs do run/manage the affairs of HOAs) and award of a project oversight contract to the PMC may not be based on need and value added but opportunity for the PMC: just a fact!. In the end, an HOA Board must get involved and make decisions and not allow a PMC to lead them in this process.