

CONTRACT TYPES

After choosing a contractor, you'll begin contract negotiations. Construction projects commonly use three contract types: Cost Plus, Stipulated Sum/Fixed Price, and Design-Build (which can be either fixed price or cost plus). We've outlined these contract types below. Please note this is a general resource document and not all information provided below may align with Live Oak Bank requirements. Before signing, please share a draft of your construction contract with your Live Oak Construction Specialist to ensure it meets all bank requirements. Legal counsel review is also strongly recommended.

Feature	Cost Plus Contract	Stipulated Sum/ Fixed Price Contract	Design-Build Contract
Definition	<p>The client agrees to pay for the actual costs of the project, plus a fixed fee or percentage for the contractor's overhead and profit.</p> <p>Live Oak Bank requires the contract to have a GMP (Guaranteed Max Price.)</p>	<p>The contractor agrees to complete the project for a fixed price, regardless of the actual costs incurred.</p>	<p>The contractor (or a design-build entity) is responsible for both the design and the construction of the project, with a single contract for both phases.</p>
Payment Structure	<p>Client pays actual costs plus a contractor fee (fixed or percentage.)</p> <p>Under this contract form, the owner is responsible for verifying actual costs.</p>	<p>A fixed price is agreed upon in advance, with payments tied to project milestones.</p> <p>It is common under this contract form for the owner to not see the general contractor's actual costs.</p>	<p>A lump sum or a series of milestone payments, often with a fixed price or negotiated fee for both design and construction phases.</p>
Risk Allocation	<p>Client assumes the risk of cost overruns, but the contractor's profit is based on total costs.</p>	<p>The contractor assumes the risk of cost overruns, delivering the project within the agreed price.</p>	<p>Risk is shared between the design-builder and the client. The design-builder bears the risk for both design and construction, which can lead to cost savings or overruns.</p>
Cost Control	<p>Costs are unpredictable and can vary based on actual expenses. The final cost may exceed estimates.</p>	<p>The cost is fixed, which encourages the contractor to complete the project within the agreed price.</p>	<p>The design-builder has greater control over cost efficiency as they manage both design and construction. However, final costs can vary based on design choices and scope.</p>
Flexibility	<p>High flexibility. Changes in scope or design can be easily accommodated.</p>	<p>Less flexibility. Changes often require renegotiations or change orders.</p>	<p>Moderate flexibility. Changes during the design phase are relatively easy to incorporate, but changes during construction may be more complex and costly.</p>

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Transparency	High transparency. The client can see and approve all expenses as they are incurred.	Limited transparency unless specific clauses for cost auditing are included.	Moderate transparency. The client communicates directly with the design-builder but may not have as clear insight into the detailed cost breakdowns of both design and construction.
Project Complexity	Suitable for projects with unclear scope, uncertain conditions, or evolving requirements.	Suitable for projects with a well-defined scope and fixed requirements.	Best for projects where the client desires a single point of contact and a streamlined process for both design and construction.
Incentives for the Contractor	The contractor is incentivized to keep costs high, as their fee is usually a percentage of the total cost.	The contractor is incentivized to minimize costs to maximize profit, since the price is fixed.	The contractor (design-builder) is incentivized to efficiently balance design and construction costs to stay within budget while meeting client expectations.
Final Cost	The final cost is uncertain and depends on actual expenses, with the possibility of cost overruns.	The final cost is fixed and does not change unless there are amendments or change orders.	The final cost is typically agreed upfront, but may change if the scope or design is altered during the process.
Typical Use Cases	Used for complex, evolving projects like custom homes, renovations, or when scope is difficult to define.	Used for straightforward projects with a clear scope and minimal changes expected, like office buildings or standard housing.	Ideal for projects where the client prefers a single point of responsibility for both design and construction, such as large commercial buildings, schools, or public infrastructure.
Examples	A renovation where the condition of the existing structure is uncertain.	A standard commercial office building with a defined scope.	A new hotel where the contractor is responsible for both designing and constructing the building.
	A custom-designed house with frequent changes.	A residential development with fixed specifications.	A public infrastructure project like a bridge or highway where design and construction are integrated.