

# The Pros and Cons When Using a Landscape Design-Build Contractor:

## (Landscape Contractor Standard of Care, Part 2)

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In part one of the series Landscape Contractors Standard of Care, I discussed why a professional landscape contractor is held to a higher standard of care than an ordinary laymen. Wikipedia defines standard of care as “In certain industries and professions, the standard of care is determined by the standard that would be exercised by the reasonably prudent manufacturer of a product, or the reasonably prudent professional in that line of work.” Read the full article at <http://landscapeexpertwitness.com/2013/11/01/landscape-contractors-work-satisfy-industry-standard-care/>.

The previous article focused on primary contract documents required for professional landscape contractors and their clients. Contract documents focus on a design, plans, specifications, notes and details that provide the contractor information on how to price, bid, and construct a project. But what happens where there are no landscape plans or specifications for a project, no information is provided to the contractor to provide an accurate bid, quote or estimate and if awarded the contract, no information on how to construct the project?

More often than not, residential and small business clients have not contracted with a landscape architect to develop a landscape design for their property, leaving the landscape design, proposal, and installation up to the landscape contractor. The Owner may not be aware that in this scenario, the contractor is fulfilling the role of landscape architect and contractor, a process known as design-build. The Wikipedia definition for design-build is “*It is a method to deliver a project in which the design and construction services are contracted by a single entity known as the **design-builder** or **design-build contractor**.*”

### Then and Now

The traditional method of construction relied upon delegation of project design to an architect or landscape architect and delegating construction responsibilities to the general or landscape contractor. For many industries and project types, this method is still fundamental to most forms of construction. However, design-build contracts and design-build contractors are increasingly being used for a variety of projects and reasons. Historically, the design-build concept dates back several millennia as the “Master Builder” concept, whereby one master contractor was responsible for an entire project.

The concept of design-build places the responsibility for the design, implementation and construction upon a single contracting entity. From an Owner or Agency viewpoint, design-build may be preferable as it creates a single point of responsibility upon the contractor. The design-build concept may reduce

client risk and overall project cost. If a client can minimize risk and potential project costs, why not always use a design-build contract method?

### **Design-Build in Landscape Contracting**

Most clients have little plant and landscape design knowledge; they typically rely upon a landscape professional to assist in the design process. If the client is a large business, agency or developer, they often engage a landscape architect for a full set of landscape plans and specifications that are provided to several landscape contractors for bidding out the work. The contractor does a plan “take off” a method for counting and recording all of the quantities, specifications and details proscribed within the plans. Once the take off is complete, the landscape contractor prices out the information and provides a proposal for the work to the potential client.

For a variety of reasons, including budgetary restraints, a client may forego using a landscape architect or designer to produce landscape plans or specifications. A common perception is the landscape contractor can design and build the project themselves, saving the client the task of locating and paying for a professional landscape architect for a set of landscape plans. Many landscape contractors will provide in house landscape design either free of charge or rolled into the cost of the construction project.

Traditionally, the landscape architect managed the design process and attendant issues; the design-build method utilizes the landscape contractor as both the designer and contractor. On the surface, this method may appear to reduce client risk and cost, however problems can quickly arise based on a number of factors. The training to become a landscape contractor is vastly different from the education and testing requirements for landscape architects. The state of California tests and qualifies landscape contractors on their business, landscape, estimating and construction knowledge, they are not tested for design knowledge or experience.

### **The Pros of Landscape Design-Build**

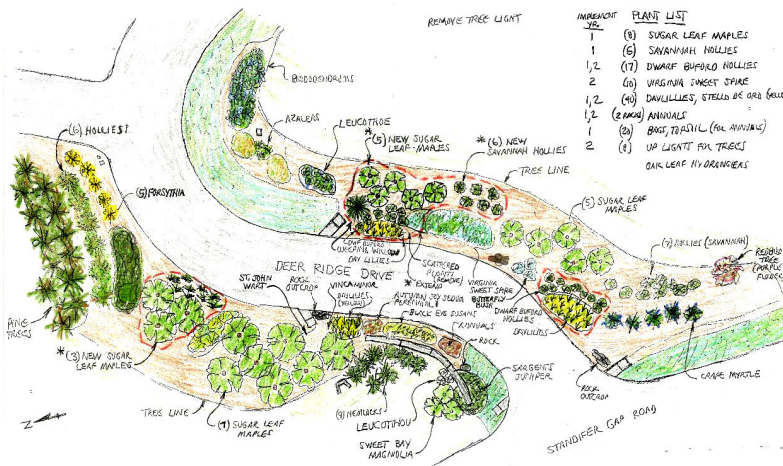
Therefore, when a client decides to use a landscape contractor as their landscape designer, they are using the contractor for a role the contractor may be unfamiliar with. This is not to imply a landscape contractor cannot provide competent landscape design work. There are many experienced, reputable, ethical landscape contractors who are quite adept at landscape design. Many landscape contractors actively seek out and provide combined landscape design-build services as a value added service for their clients. Larger landscape contracting firms employ a licensed landscape architect specifically for design-build projects. A design-build landscape contractor can benefit the client by:

- Reducing or eliminating traditional landscape design cost.
- Improved efficiency in overall project design and construction scheduling.

- Improved client-contractor negotiations and communications.
- Effective plant selection based on real time nursery availability.
- Efficient turnkey construction operation for all required trades.
- Improved scheduling and project duration.
- Reduced risk for the client.
- Reduced hassle for the client, only one point of contact.

To achieve these benefits, the client must successfully locate a reputable, experienced landscape design-build contractor. Unfortunately, clients are not always successful in locating a design-build contractor because they may not realize what they are looking for. As previously mentioned, there is a perception that landscape contractors or even gardeners are landscape designers, fully capable of providing a functional, aesthetic landscape design and construction installation of the design. This perception may have negative unintended results for the client, which may lead to a client-landscape contractor lawsuit.

When I operated Landscape Horticultural Services, #436000, we provided landscape design, construction and maintenance services. However, our design services were offered independent of our construction services, the landscape and irrigation plans were specific and detailed, including legends and specifications that clearly identified plan components. If the client decided to obtain competitive bids, our landscape plans enabled the client to provide plan sets to various



sets to various contractors for bidding purposes. While we contracted separately and charged a fee for the design services, however, if awarded the construction contract, the design fee was reduced or eliminated.

**The client or other contractors would not know what size plants are depicted in this sketch.**

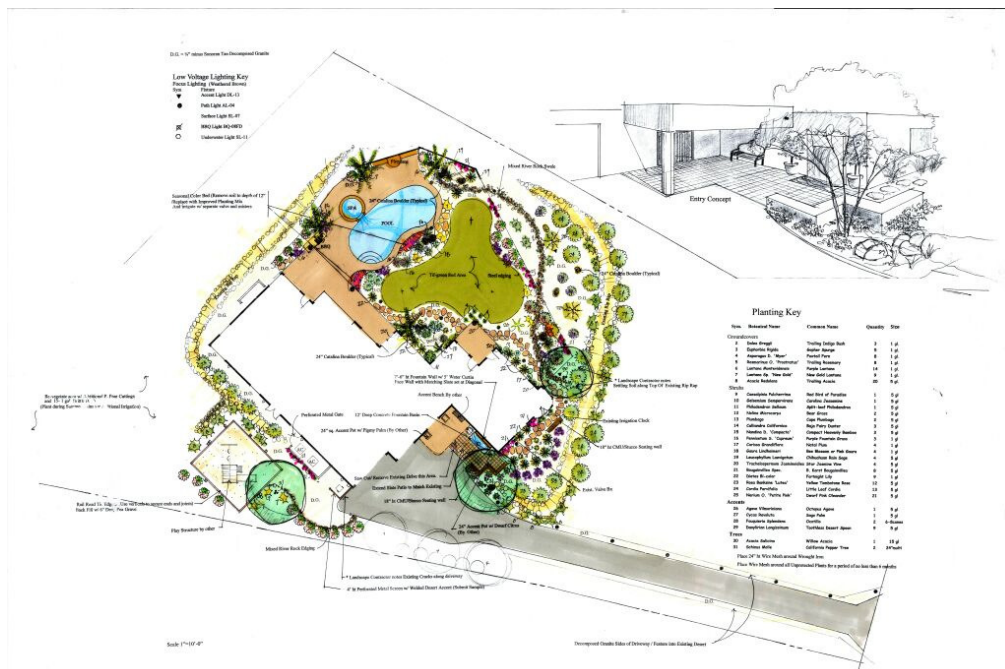
To the left is an example of a sketch design; the plants are called out by common

rather than by scientific name. There is no scale provided. Since plant sizes are not specified, several contractors would bid this plan differently from each other, possibly utilizing varying plant container size, plant density or plant species. The client would not know any of the same information or be able to answer questions from other contractors.

A client contracting for landscape design-build services may receive this kind of "sketch" design from the contractor. It might look great to the client but in actuality, it greatly favors the design-build contractor who can select any size

plant they determine since it is not specified on the design, modify the plant density to their budget. They may use differing quantities or entirely different species using a plant's "common name".

When a design-build contractor delivers a general, poorly depicted, unspecified landscape design, the client should be aware of potential conflict of interest. A conflict of interest occurs when the contractor acts as both the "judge and jury". An example would be a landscape contractor who provides a landscape design based on their knowledge of the cheapest plants available at the local nursery. They use these plants not because of their design value, only because of the cost savings to the contractor. When a design-build contractor sacrifices project design principles for construction cost savings, they have failed to satisfy their professional standard of care and have displayed a professional conflict of interest.



**Properly specified landscape plan with legend enables fair bidding, (picture from Man of Soil Landscape Builders).**

The picture above represents a true landscape design, not an unspecified sketch. This design identifies the plant species and the plant container size. Provided to several landscape contractors, this plan would benefit the client by obtaining competitive bids based on specified information.

Many clients never intend to bid out the work to other landscape contractors. They may select the easier course, which is to simply have the contractor or worse, their gardener design and install the work. In this scenario, the contractor or gardener might not even produce a plan; the client places their full faith upon the contractor and hopes for the best. This is a dangerous scenario that may have an increased risk of negative results for the client.

When a design-build landscape contractor provides clearly specified design work, the client is most likely working with a knowledgeable, industry professional who really cares about their product and pleasing their client, not a contractor more interested in making a quick buck by selecting poor nursery stock, providing un-amended soils and other short cuts that result in a poorly performing landscape product.

### **And the Cons of Landscape Design-Build**

While a reputable, knowledgeable and experience landscape design-build contractor can reduce project design cost and simplify client point of contact, the opposite is true of a unscrupulous landscape design-build contractor who either does not possess the knowledge and experience or worse, they intentionally defraud a client for their own financial gain.

- Conflict of interest designing in the best interest of the contractor rather than the client.
- Design elements favor the contractor's pocket book rather than the client best interests.
- Contractor provided materials might be sub-standard.
- Non-existent specifications lead to contractor cutting corners (cheating the client of proper installation techniques.)
- Inconsistent and poor client-contractor communication.
- Project may look initially look okay, but performs poorly months and years down the road.
- The client receives poor value for the money spent, negating any benefits derived from using a design-build contractor.

How can clients protect themselves using a landscape design-build contractor?

- Ensure the contractor is providing a detailed, properly specified landscape plan. This might cost extra but is well worth it.
- If you want free design work, don't expect a fully specified design, or the ability to have other contractors bid the work.
- Understand a sketch is a conceptual design and typically does not specify plant sizes.
- Unspecified, poorly detailed drawings may lead to client dissatisfaction with the finished product.
- If you want the freedom for other contractors to bid the design work, define your expectations with the landscape contractor before you sign a contract.
- As for professional referrals.
- Ask to see their previous client designs.
- Ask questions, don't just accept a sketch design without understanding the plants to be used, their sizes, planting density, soil preparation and other factors that affect landscape aesthetics and performance.

- YOU GET WHAT YOU PAY FOR!

In summary, reputable, experienced landscape design-build contractors can reduce client risk by providing a single point of contact and reduce project design and construction costs. They provide realistic, pragmatic functional designs based on their knowledge of material availability and cost. Their knowledge can save material cost overruns and improved construction scheduling and duration. An unscrupulous or inexperienced landscape design-build contractor may provide a poorly detailed landscape sketch drawing at best or no drawing at all. The client is totally dependent on the contractor who install smaller, poor quality plant material and present a conflict of interest for the client, resulting in sub-standard materials, construction technique and ultimately a poorly performing landscape product that may result in client legal action.