

# BreakingGround

THE MAGAZINE OF THE MASTER BUILDERS' ASSOCIATION OF WESTERN PENNSYLVANIA

SEPTEMBER/OCTOBER 2010

## an update on **EDUCATION**

**THE RECOVERY  
WAITS ON JOBS**

**GREEN SCHOOLS  
BECOME MAINSTREAM**

**COLLABORATION AND  
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# Publisher's Note

It's interesting what you find about your readers every so often. Apparently I bummed out quite a few of you with the Publisher's Note in the July/August edition. By the time late June rolled around, which is when I wrote it, the economy was bumming me out and I guess I wrote something akin to a capitulation to the negative forces that have been suppressing our industry.

Mid-year is the time of vacations and golf outings but it's also a sobering time of the year for many businesses in our industry. As I wrote last time, the summer marks a time of desperation if your year isn't going well so I guess the combination of general economic frustration combined with the knowledge that most of our industry was facing up to an unhappy 2010 just wore down my usual optimism.

Whatever the reason, I apologize to those who look to this column for what is normally a more upbeat tone. I think you'll find this month to be more in line.

Of course it's not that the prospects for the next year have gotten any better, but there are more signs that the regional economy may be shrugging off the daily deluge of conflicting signals and market doomsayers. More than any market sentiment shift, the focus of this edition – education – is the real source of the more optimistic message. No matter how gloomy things may look for the near term, researching the trends in education puts you in touch with people who are teaching the next generation for a living, and that's always a more uplifting task.

Construction in the school market certainly faces some tough challenges in the next half-decade, but as always there are some cool things going on in education that will offer opportunities for design and construction that is on the cutting edge.

Education and infrastructure are two areas that the current ruling generations are going to have to face funding to a higher degree in this decade. The normal means of financing construction in the public sector are being taxed (no pun), and the demographics aren't favorable for sustainable funding of either sector. Yet both require diligent investment to maintain viability, and both represent areas of investment that pay off well beyond the immediate and obvious benefits.

The payoff from investing in educational facilities is unfortunately much more subtle and delayed than from highway projects. Highways may have been the key to commercial expansion and a truly national market after World War II, but the focus on better education that followed the war also elevated the nation's competitive edge. High school graduation rates climbed in the 1950's. By the next decade a college degree evolved from being

a luxury that afforded the graduate a fast track to success, to becoming a minimum requirement for many careers.

These trends created a professional class that was enormous by comparison to the rest of the world. The advantage in education translated to a competitive advantage that made America more innovative and creative in solving problems of science, business, technology, entertainment and whatever else was thrown in our way. The competitive advantage also allowed the country to shift its economy from manufacturing to service in short order a generation ago.

Demographics added to this change in societal values and created demand for a wave of new schools and upgraded college facilities. That wave of new construction followed the Baby Boom throughout its school years, and the echo of the boom when their children went through school twenty five years later. School construction has been a big part of the construction industry since World War II ended, not just in volume but also as an inspiration for innovation.

The education market is approaching a critical spot in the road now. It will be interesting to see if the nation's school boards and taxpayers have the will to pay for the changes and reinvestment needed in the educational infrastructure. This place in the journey also challenges civic leaders to assess the importance of a sustainable and energy efficient environment to our children's education. We'll learn a lot about our nation over the next couple of federal administrations. The really innovative universities are already shifting their physical plants to meet the needs of future education. For those investments to be rewarded the public education investment will have to keep pace. Otherwise, there will be a lot of empty science and technology classrooms at colleges in about ten years.

Speaking of shifting, the content of *BreakingGround* is about to get a minor tweak. The concept of News From the Street was always a bit out of step for an every other month publication. This edition is likely to be the last for that column. Rather than abandoning the concept of news, *BreakingGround* is instead shifting its distribution of News From the Street from print to digital, in the form of a regular email blast.

The majority of our readers are already part of *BreakingGround*'s email list, but to ensure you receive these updates please feel free to email or call me to get on the distribution. And when you call, tell me if this edition is still bumming you out.



Jeff Burd

# News From The Street

## Changes Afoot at DGS

Pennsylvania Dept. of General Services Secretary James P. Creedon stepped down from the position September 3 to begin a private consulting and project management practice. Creedon joined DGS as deputy director of public works in 2003 and was appointed Secretary by Gov. Rendell in July 2005. Most recently, Secretary Creedon was appointed by Governor Rendell as Pennsylvania's Chief Implementation Officer for the American Recovery and Reinvestment Act (ARRA).

He will be succeeded on an interim basis by director of public works Elizabeth O'Reilly, who has been in that role since October 2007. Liz O'Reilly joined the Department's office of chief counsel in 1987.

## New Rule Requires Federal Contractors to Report Subcontract Information for Most Projects

Federal contractors must report award data for first-tier subcontractors that win subcontracts valued at more than \$25,000 for publication on a searchable public Web site. According to an interim rule issued on July 8, 2010, prime contractors must report subcontractors' office and jobsite addresses; DUNS Numbers; NAICS codes; subcontract numbers; subcontract dates and amounts; description of the products or services being provided; and prime contract information. Federal contractors and first-tier subcontractors for which "80 percent or more of its annual gross revenues from federal contracts and \$25 million or more in annual gross revenues from federal contracts" must also report compensation data for the five most highly compensated executives of the company. The reporting requirements take effect as follows:

Until Sept. 30, 2010, any newly awarded subcontract is to be reported if the prime contract award amount was \$20 million or more.

From Oct. 1, 2010, until Feb. 28, 2011, any newly awarded subcontract is to be reported if the prime contract award amount was \$550,000 or more.

Starting March 1, 2011, any newly awarded subcontract is to be reported if the prime contract award amount was \$25,000 or more.

Compliance requires that prime contractors must submit reports to the Federal Funding Accountability and

Transparency Act Subaward Reporting System ([www.fars.gov](http://www.fars.gov)) by the end of the month following the month in which the prime contractor awards the subcontract.

## Construction Legislative Council Appoints New Executive Officers

The Construction Legislative Council of Western Pennsylvania (CLC) announced the election of its officers for the 2010/2011 calendar year:

CHAIRWOMAN: Paula Maynes, American Institute of Architects, Pittsburgh Chapter

VICE-CHAIRMAN: William Ligetti, Ironworkers Employers Association of Western PA

TREASURER: Michel Sadaka, Pennsylvania Society of Professional Engineers

SECRETARY: Jon O'Brien, Master Builders' Association of Western PA

The CLC is a multi-discipline coalition of 13 construction industry organizations, representing the interests of thousands of contractors, architects, engineers, owners and material suppliers from Western PA. Their primary purpose is to advance an informed dialogue with elected leaders and policy makers who will advance the economic and political interests of the construction industry. For more information on the CLC, visit [www.clcpa.org](http://www.clcpa.org).

## GREEN BUILDING NEWS

### The Green Building Certification Institute (GBCI) Awards 10,000th LEED Green Associate

The credential, which was introduced to the market just last year, has secured its status as the preeminent designation for professionals who support the green building industry. The LEED Green Associate exam tests for fundamental understanding of sustainable building practices and principles. It is specifically designed for those individuals who work in industries that support sustainable building, such as manufacturing, sales, policy, real estate, property management, law, marketing, and many others. It is also a starting point for students and professionals who desire to eventually become LEED APs with specialty.

Earning a LEED Credential demonstrates a candidate's comprehensive and current knowledge of green building technologies and best practices. As an indicator that an individual has met this benchmark of understanding, the LEED Green Associate credential is a mark of recognition for professionals who may not have direct involvement on a LEED project but who work closely with the sustainable building industry in other capacities.

## Consol Energy Center: First LEED Gold Arena in NHL

Consol Energy Center is the first NHL arena in the nation to be certified LEED Gold for new construction. In addition to ensuring environmentally conscientious hauling of construction waste and use of recycled or sustainably harvested local/regional materials in its earliest developmental stages, the Center boasts low flow plumbing fixtures, a light control system, a green cleaning program and a recycling program for glass and plastics, among other features. The Consol Center also actively promotes bus and bicycle transportation, as well as reserves special parking areas for low emission vehicles.



## November 4 - Save the Date: Green, Healthy Schools Conference

Two nationally recognized keynote speakers and representatives from the Pennsylvania Department of Education and Governor's Green Government Council will present the importance of high-performance, healthy K-12 schools at the 2010 Green Healthy Schools Conference at Phipps Conservatory & Botanical Gardens. School administrators, board members, teachers, architects and parents are encouraged to attend this full-day conference featuring:

- Vivian Loftness, FAIA, LEED AP, Professor, Carnegie Mellon University School of Architecture
- Bill Reed, AIA, LEED AP, Principal, Integrative Design

- Collaborative, Regenesys, Inc., and Delving Deeper
- Michael A. Walsh, Deputy Secretary, PA Department of Education
- Dennis Maloskey, Director of Sustainable Engineering and Development, PA Governor's Green Government Council
- Patricia Vathis, Environment and Ecology Curriculum Advisor, Office of Environment and Ecology, Pennsylvania Department of Education

The conference is being presented by Green Building Alliance in collaboration with Phipps Conservatory & Botanical Gardens and the Tri-State Area School Study Council (part of the Administrative and Policy Studies Department in the University of Pittsburgh's School of Education). For more information contact the GBA at 412-431-0709.


## Engineering Sustainability 2011: Innovation and the Triple Bottom Line First Call for Papers: Due October 25, 2010

ES11 welcomes submissions from academia, industry, nonprofit organizations, government institutions, and other interested parties. To qualify for acceptance, please submit a one-page abstract (200 words maximum) electronically at [http://www.eswp.com/MSI2011\\_CFP.htm](http://www.eswp.com/MSI2011_CFP.htm) on or before October 25, 2010. The program committee will inform all submitting authors by November 22, 2010, whether their papers have been accepted for an oral or poster presentation. The final paper associated with this conference is a two-page extended abstract (~1,500 words).

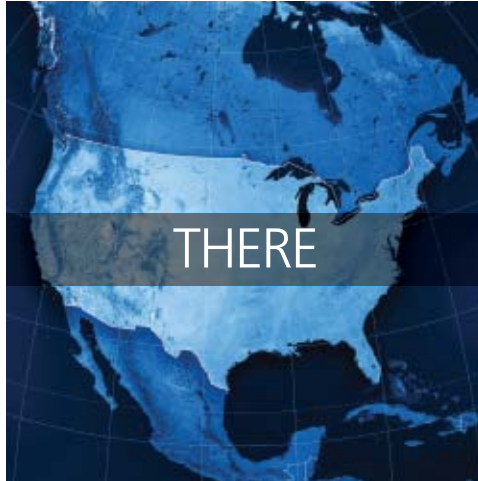
The conference will be held April 10-12, 2011 at David L. Lawrence Convention Center, Pittsburgh PA.

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## REGIONAL UPDATE

While it may not feel like it every day, some interesting positive signals have begun to appear in the regional market to suggest that the construction and real estate business conditions are on an improving arc. Little has transpired this summer to suggest that the short range outlook – the possibility for significantly increased opportunities in 2011 – will improve, but there have been more signs that the decline in opportunities has ended.

The traditional model for a recovery is for improving macroeconomic conditions to lift confidence among consumers, who will then feel comfortable about buying or building a new home. In most cycles the catalyst for a rise in new home demand will come from the end of monetary easing when interest rates begin to rise again. New home permits rise, retail construction then follows, after which a more general commercial construction growth cycle begins. On the regional level this cycle can be amplified by unusual infusions of public construction, like when the stadiums and Lawrence Convention Center were built during the peak of the 1997-2001 growth cycle.

Because the current cyclical trough began with the non-cyclical collapse of that lead indicator category, housing, increased demand for new home construction isn't going to occur until well after this cyclical recovery begins. Without the leading indicator of rising house permits, judging a change in trend will be harder this cycle, although that doesn't mean that some positive indicators won't come from housing.

For example, the National Association of Realtors reported in August that the median price of single-family existing homes in Pittsburgh was up 1.9 percent from a year ago, to \$126,600. It's also up significantly from last quarter, when the median price was \$116,000. Drawing a clear conclusion from that data, however, is made more difficult by moderating data that shows housing permits down over 13% in the region through mid-year, and anecdotal evidence that new home listings are well below normal. Both of these conditions raise concerns that home prices are being propped up by constricted supply rather than growing demand. The danger if that is correct, of course, is that when builders and sellers feel more confident, a glut of homes for sale will push prices down. At this point in a recovery that kind of

speculation is borrowing trouble, but it also represents a potential negative scenario worth monitoring.

Some of the most basic economic data shows reason for regional optimism, particularly in bellwether category of employment. Through July unemployment in metropolitan Pittsburgh was 8.5%. That number compares favorably with the national metropolitan median rate of 9.2% and the overall U. S. unemployment rate of 9.5%. With construction employment picking back up as the AK Steel and USS Clairton Works projects get underway, it is likely that regional unemployment has seen its bottom for this cycle.

First and most positive is the upswing in retail construction and leasing. With housing a non-factor in the economy, the next best place to search for evidence of confidence is in the retail sector. Consumer confidence still appears to be very tenuous but the retailers have been demonstrating more confidence by ramping up capital expenditures throughout this year. Vacancies in Pittsburgh have been less severe than the national levels throughout the recession, and progress on several new projects indicates that retailers are looking at better conditions going forward.

From the perspective of long-range trends, much uncertainty remains about what American consumer behavior will be and whether recovery will bring about more big boxes and town centers. In response to a positive short-range trend, however, retail investment is following the path which normally predicts recovery. Grocery store construction has been dormant since 2007 in the region, but currently new stores are underway throughout the region for Giant Eagle, Shop 'n Save, Aldi's and even Whole Foods. Giant Eagle has been investing more than a million dollars updating a half dozen or so markets. National big box brands Target, Lowe's and WalMart all have new stores under construction, with WalMart also wrapping up a major rebranding over the past 24 months (what was blue is now tan). Auto Zone and Advance Auto Parts are each building several stores. Kohl's and Costco

are expected to begin new stores by year's end. L. A. Fitness is planning two more locations. HH Gregg has begun converting the first of its new spaces to enter the consumer electronics market here.

Even the mall activity has shown life. Ross Park Mall continues its renaissance with the Crate & Barrel opening along with



These upbeat developments  
could, of course be easily  
undone **WITH ANOTHER  
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a handful of higher end infill tenants. New projects at McCandless Crossing and Newbury Market have been experiencing increased interest and have reached accord with a number of anchor tenants that will be announced after Labor Day. And an unnamed national retailer has been negotiating with several regional reps to handle a \$40 million rebranding program in 2011-2012.

These upbeat developments could, of course be easily undone with another big negative economic chill or a dismal Christmas shopping season, but until some derailing event occurs the increased investment indicates that retailers are willing to place expensive bets on improving conditions.

In a completely different vein, changes in the competitive environment in a subsector of the market are indicating improving conditions. In spring of 2009, the competition for projects between \$500,000 and \$1,000,000 marked the worst of the bidding climate of this cycle. At the low point of the market last year, more than 25 contractors submitted bids for a number of projects under \$1 million. Recent projects in that category have been attracting as few as four or five bids and the low bid, while still significantly below the pack, has been at or slightly above the budget. This part of the market is particularly volatile and a short-term drought of this size project could produce piranha-like conditions again, but the current climate is suggesting an easing for smaller contractors.

The third upbeat indicator has been the return of large project opportunities to the region. During the extended growth cycle of 2005-2008 there were at least a handful of projects worth more than \$100 million available every year. Not surprisingly, large projects were almost entirely shelved for the past couple of years. Since the beginning of summer, however, a handful of big projects have moved forward.

Bids were opened in mid-late August on the \$140 million second phase of the FBI's expansion in Clarksburg, WV and the \$130 million One Grandview project on Mt. Washington. Bids were being sought on the foundations package for the first new battery at the USS Clairton Works, which should result in \$450 million in contracting as a first phase. Construction has started on the \$140 million electric arc furnace replacement in Butler. And Allegheny Technologies selected Siemens VAI Metal Technologies to design the rolling mill that will be the centerpiece of its \$1.2 billion plant in Brackenridge.

For the region's largest contractors and specialty contractors the increase in large projects is welcomed as the last round of big work had wound down with the opening of 3 PNC Plaza and the Consol Energy Center, and the construction phase of UPMC East Monroeville.

Another sector of the market that has become active counter to the national trend is the surge in planned offices and hotels. Recessionary conditions have chilled the hospitality sector overall and the high unemployment has caused a spike in office vacancy rates across most markets, but here in Pittsburgh neither condition has plagued those sectors.


Hotels have been in short supply relative to demand regionally, so that even as the recession raged, developers were building a variety of flags throughout the region. Projects are wrapping up at Settlers Ridge in Robinson Township, and at two hotels on the North Shore. Three different brands have or will be opening shortly at the Meadowlands. In planning are several hotels in Cranberry Township, the Southpointe/Canonsburg area, South Side, and Greensburg/Latrobe. And the long-awaited \$110 million Convention Center hotel should have a developer before fall.

The Pittsburgh office market has not only proven resilient during the recession but has actually thrived. According to CB Richard Ellis' second quarter report the office vacancy rate fell for the sixth consecutive quarter, clocking in at 9.2% vacant for a regional average of Class A/B space. That rate is half the national rate of 18.4%.

Even as office vacancy rates have continued to fall in the region – especially in the high growth corridors north and south – the tightness of credit and/or unfavorable conditions kept new office construction under wraps until this year. At Labor Day, however, a mix of build-to-suit and speculative office projects were moving through the planning stages. Horizon Properties was in the process of revising its Southpointe II plan to accommodate the hoped-for Range Resources Marcellus Shale headquarters. In Cranberry Township, where contiguous vacant spaces of 7,500 square feet no longer exist, the municipal planning pipeline has five projects almost overnight.

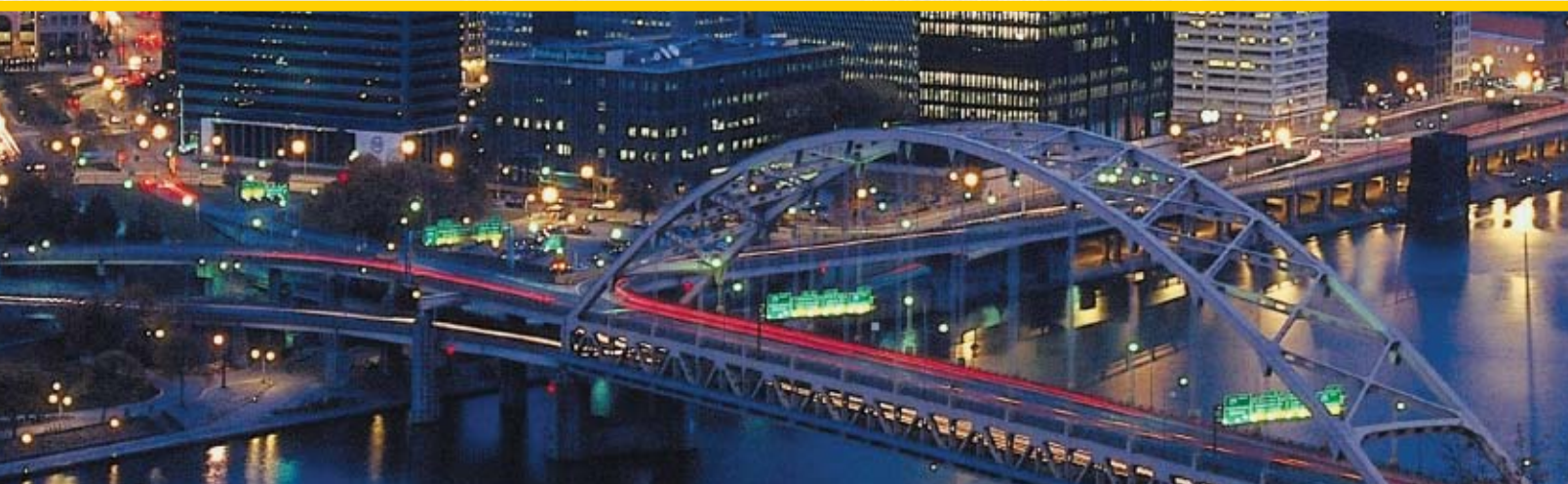
Among the projects announced are Elmhurst's Commons at RIDC, expected to add 96,800 square feet of office/flex space, Pennwood Commons II, a 53,500 square foot office building by PA Commercial, Cranberry Business Park Lot 300, a 54,000 square foot plus flex office to be developed by Chaska Property Advisors, and a ninth building at Cranberry Woods, a 185,000 square foot building by CBRE/Trammel Crow. In mid-August developer Don Rodgers also announced a shift in his mix at the Village of Cranberry Woods, adding 200,000 square feet to bring the total office portion up to 350,000 square feet. Of course overhanging the Cranberry/Wexford market is whatever yet unannounced office needs that Westinghouse could bring to the market at any time.

The regional market is beginning to show potential from pent up demand. A rosy outlook is far from assured, even for beyond 2011. With much uncertainty still clouding the global financial markets, lagging employment and a tumultuous mid-term election on the horizon, there remains potential for most of the projects mentioned above to go back on the shelf, keeping the recovery at bay for a few more quarters.

November's gubernatorial election provides one additional glimmer of hope for the mid-range forecast. If history is any indication the result of the election of a Western PA governor – one result that has no uncertainty – should mean an end to the drought of state funding that the western region has experienced since the end of the Ridge administration. 



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## NATIONAL MARKET UPDATE

"Uncertainty reigns."

That's how Real Estate Roundtable ([www.rer.org](http://www.rer.org)) president and CEO Jeffrey DeBoer introduced RER's second quarter real estate executives' survey on August 6. Whether you are referring to commercial real estate, as DeBoer was, or commenting on the overall global economy the sentiment sums up more definitively in two words what the entire financial press has been babbling about since the first quarter. While there are an entire battery of data and categories to illustrate and analyze what the status of the economy is at the moment, the next trend in direction seems to rest on one metric: jobs.

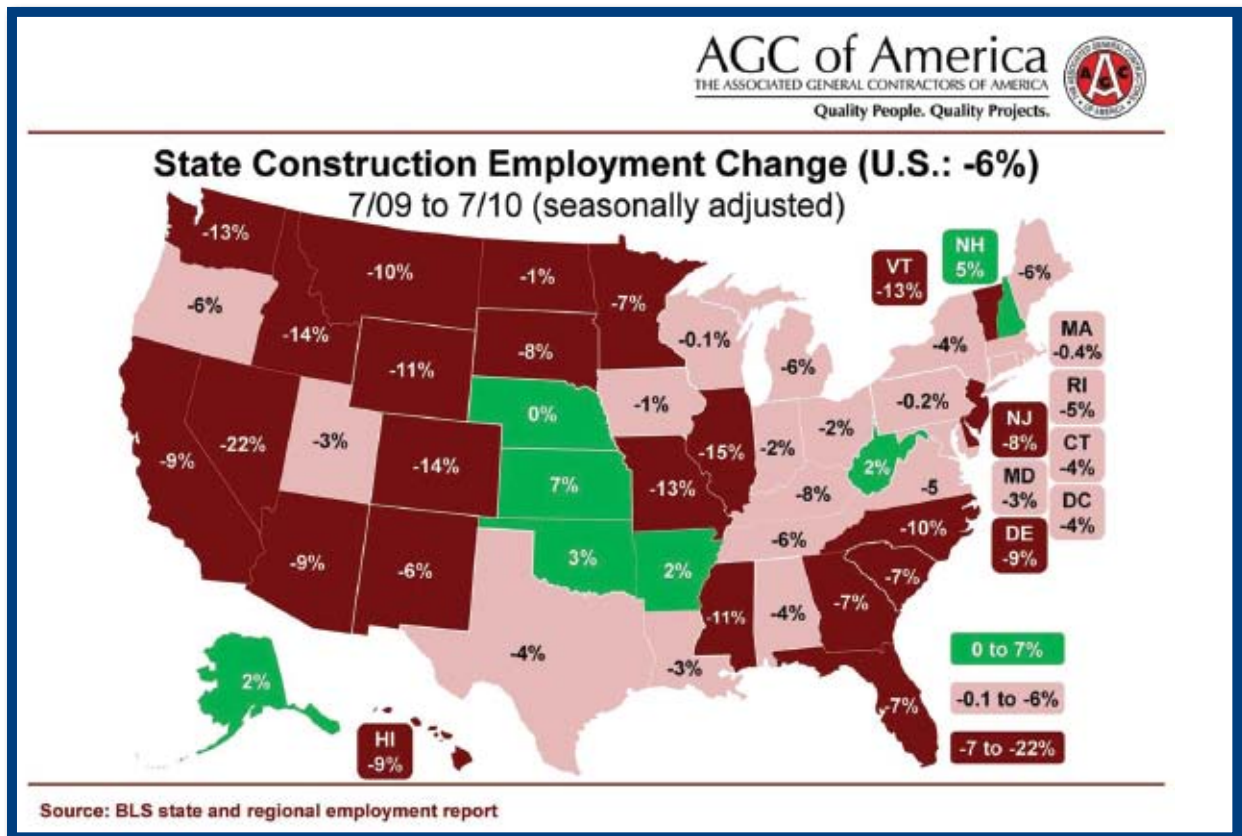
Over the duration of a full business cycle there are always short stretches of time when the markets seem to flatten out, when data suggests a marking of time rather than the continuance of a trend. We find ourselves in such a time in summer 2010. Here is a sampling of the information that reflects the current uncertainty.

Let's start with the RER survey. Its upbeat note was that the preponderance of real estate executives responded

that commercial property values had stopped falling in their markets for the second straight quarter. This almost certainly confirms that the precipitous decline in value of over 50% during the past two years has ended. At the same time, the same executives expressed doubt that property values were going to rise in the foreseeable future.

Another survey that has historically been a solid leading indicator is the American Institute of Architect's Billing Index (ABI). The index measures the responses to whether the surveyed firms' billings are rising or falling in that month. A score of 50 indicates as many rising as falling and obviously scores above 50 indicate growing future opportunities. The July ABI of 47.9 was slightly higher than June's 46 response, but it marked the 30th consecutive month below 50. Moreover, it marked another month of responses between 45 and 50, confirming that design activity has picked up over the past year but also that activity is also anemic. Even the relatively positive reading on inquiries, up to 53.1, may only be reflecting an increase in the number of firms asked to compete for commissions rather than an uptick in projects in the pipeline.

The government's Bureau of Economic Analysis reported that second quarter gross domestic product grew 1.6%, a significant decline in growth from the first quarter's 3.7%



*The highest rates of construction unemployment remain concentrated in a handful of states.*

GDP growth. At the same time the BEA reported that investment in residential and non-residential structures increased at a healthy pace, 5.2% and 27.9% respectively, in sharp contrast to the first quarter declines of 17.8% and 12.3%.

In its data, BEA found that the personal savings rate rose to 6.2%, the most since 1998. Real disposable income rose 4.4%. Business investments rose at a 17% annual rate in the second quarter after a 7.8% gain in the first quarter. Investments in equipment and software rose at a 21.9% pace. Business fixed investment added 1.5 percentage points to growth. Inventories increased by \$75.7 billion. The change in inventories added 1.1 percentage points to growth.

Yet all of the signs that the economic decline has ended have not coincided with a related increase in construction; in fact the opposite has occurred. According to Reed Construction Data the value of nonresidential starts in July was 9% lower than that of July 2009, with nonresidential building activity falling 14%. Construction in those categories has been up so far this year, with nonresidential building rising 5% year-to-date and heavy construction up 12%, but construction volume that remains below 2009 is still uneven at best.

Residential construction remains mired in the aftermath of the mortgage bubble implosion that is now three years old. Housing starts for July were reported on August 17 at levels that are below last year's. Permits for new homes in July were at a seasonally adjusted annual rate of 565,000 units, a 3.7% decline from July 2009. Housing starts declined 7% from the July 2009 rate of 587,000, to a seasonally adjusted annual rate of 546,000. The National Association of Realtors reported in August that the median price of single-family existing homes nationally in the second quarter was up 1.5 percent from the second quarter of 2009, but at the same time acknowledged that little of their data shed light on when the inventory of foreclosed homes would cease to be a drag on prices.


One segment of the housing market that has begun to show life is multi-family. The sharp decline of single-family home values and the slowdown in the economy should have been driving down vacancy rates for apartments throughout the past 18 months, yet that market remained soft in 2009. Demand for apartments has risen significantly this year, said Greg Willett, vice president of research and analysis for MPF Research, which analyzes apartment trends. "There's no way to look at these apartment numbers and not be impressed," he said.

June vacancy rates in the largest 64 markets in the country averaged 6.6%, down from 8.2% at the end of 2009, according to MPF Research. The apartment market absorbed 215,000 units in the first half of the year, and at this rate, the market will absorb a little more than 300,000

units by the end of 2010, according to data released Aug. 6. Absorption is the net change in the number of units physically occupied. That rate would surpass the net absorption of just under 300,000 units in 1999, 2000 and 2004, which were the highest rates since 1990. Big changes in net absorption have historically been accompanied by growth in employment, since more jobs create more opportunities for those who are entering the workplace to afford an apartment. The significant spike in foreclosures over the past few years has also created a pool of potential renters however, and it will be some time still before it is known how much of the rise in apartment demand is simply a result of displaced homeowners finding a place to live.

As summer winds down there is not much evidence that any positive trend in employment is building. Mid-August Department of Labor reports showed a surprising increase in layoffs had occurred. First time filings for unemployment compensation were slightly higher after declining for most of the year. Private sector job creation was positive, but at less than 200,000 per month the pace was insufficient to put a dent in the 8 million jobs lost.

Construction unemployment had moderated by July. Those laid off rose by 11,000 in July but construction unemployment fell to 17.3% compared to the 18.2% of July 2009, representing a year-over-year gain of 150,000 jobs. Employment fell to a seasonally adjusted total of 5,573,000 workers, a 14-year low. When distributed by state, construction employment shows a handful of states with actual increases in employment, and many more states with mild decline. As has been true throughout the recession, the overall high unemployment has been exaggerated by dreadful conditions in a small number of states, primarily California, Illinois, Arizona, Florida and Nevada.

At the end of the day no amount of analysis of the second quarter macroeconomic or construction data changes the conclusion that real change is dependent upon a change in unemployment. It seems unlikely that the economy will experience a pullback that drives unemployment back above 10%, but the fear of a 'double dip' lingers enough that employers aren't hiring in great numbers. The stock market has regained 70% of its October 2007 high yet it remains exceptionally sensitive to employment reports. The next big move in employment will surely dictate the direction of the markets and construction, for better or worse. 

## WHAT'S IT COST?

One of the few benefits of a construction market that is stuck going sideways is the short-term impact on construction inflation. After a few price increases occurred for some basic items early in 2010, sluggish demand has drawn most prices back to last year's levels, with the prospect of further price deflation likely as the year winds down.

July's report on inflation showed that the Consumer Price Index was flat from June to July and up only 1.2% for the past 12 months. Producer Price Index (PPI) showed slightly higher rates of inflation, at 0.3% for the month and 4.4% for the previous year, but the PPI growth has continued to decline since the beginning of the year. PPI for products and materials that are used for construction actually declined from June to July by two-tenths of a

percent. Like the overall PPI, the inflation for construction inputs continues to fall, slipping to an annual rate of 4.5%.

For contractors, and especially specialty contractors the declines have not occurred soon enough or steeply enough to offset the deflation from competitive pressures for their installed work. Of the major specialty trades measured by the Bureau of Labor Statistics only plumbing construction has risen more than one percent, and that trade's 2.7% increase is owed entirely to the disproportionate inflation in copper and steel prices over the past 12 months. With each of those materials rising more than 25%, the slight increase in installed plumbing masks the decline in what plumbing subcontractors are able to charge for skilled labor, overhead and profit. Among the other trades, roofing has seen a 2.9% decrease; electrical has risen 0.3% and concrete 0.1%.

The diverging trends have put unusual pressure on subcontractors nationally. The recipe of 25% to 40% fewer projects, combined with pricing deflation in the face of even low inflation for materials has created a very tenuous landscape for the specialty contractors. Many industry observers – the surety companies in particular – are anticipating record high levels of business failure among the specialty trades in 2011.

Over the past two decades the share of work being self-performed by general contractors has fallen significantly, so that the health of the specialty contractor should be of major concern to the industry's developers and institutional owners. Should the worst case scenarios come true – the worst skeptics predict one in four subs will fail – the impact on construction in progress will be dramatic. During the course of the next 12 months the likely trend for building materials and products is for continued soft pricing, perhaps falling to an annualized PPI increase in line with the CPI's one to two percent rise. This forecast seems essential to cushioning specialty contractors in the transition from their current difficulties to a recovery, assuming recovery is in the works.

PERCENTAGE CHANGES IN COSTS			
July 2010 compared to			
	1 mo.	3 mo.	1 yr.
<b>Consumer, Producer &amp; Construction Prices</b>			
Consumer price index (CPI-U)	0.0	0.0	1.2
Producer price index (PPI) for finished goods	0.3	0.1	4.2
PPI for construction	-0.2	-0.5	4.5
<b>Costs by Construction Types/Subcontractors</b>			
Highway and street construction	-0.2	3.1	6.8
Residential buildings	-0.2	-0.2	3.7
New industrial building construction	0.1	0.4	0.0
New warehouse construction	0.2	0.2	-0.6
New school construction	0.1	-0.2	0.6
New office construction	0.3	0.4	-0.6
Concrete contractors, nonresidential	0.6	0.3	0.1
Roofing contractors, nonresidential	-1.5	-1.5	-2.9
Electrical contractors, nonresidential	-0.1	0.0	0.3
Plumbing contractors, nonresidential	-0.4	0.1	2.7
<b>Costs for Specific Construction Inputs</b>			
#2 diesel fuel	-1.5	-9.0	26.4
Asphalt paving mixtures and blocks	0.0	0.0	6.6
Concrete products	0.0	-0.1	-1.9
Brick and structural clay tile	-0.3	0.6	0.2
Plastic construction products	-0.5	-0.7	2.7
Gypsum products	-2.2	2.6	0.2
Lumber and plywood	-1.4	-3.3	12.1
Architectural coatings	0.0	0.1	-3.2
Steel mill products	-1.4	0.7	26.1
Copper and brass mill shapes	-0.1	-13.0	16.1
Aluminum mill shapes	-0.6	-4.7	9.0
Fabricated structural metal	0.4	-1.5	-2.8
Prefabricated metal buildings	1.6	7.0	9.2
Crude petroleum (domestic production)	-0.1	-11.3	29.0
Asphalt (at refinery)	-2.1	-0.4	23.2
Cement	-0.7	-2.7	-6.9
Iron and steel scrap	-6.7	-16.5	45.6
Copper base scrap	1.4	-15.1	27.1
Source Bureau of Labor Statistics, Updated August 17, 2010			
Compiled by Ken Simonson, AGC Chief Economist			



Within the major categories of products and materials there are few changes in price during the past two months but significant changes since the start of the second quarter. Most materials have seen noticeable declines since April but are flat or up over the past twelve months, suggesting that the trend is still downward.

Copper, lumber, drywall, aluminum, concrete and steel scrap have all declined in the range of 4% to 7% over the past 60 days, but are all still higher than last July. Some other basic commodities have experienced even greater divergence.

Structural steel has been one of the more volatile components but the volatility has been within a very narrow range. For example, the nation's largest domestic mill, Nucor announced a \$20 per ton decrease on July 13. By August 15 the steel mills had put in place a \$25 per ton increase for rebar and structural shapes. Steel executives surveyed in July expressed doubt that any supply and demand changes were in the offing to give a boost to prices, expressing the opinion that prices were likely to bounce around within a few percentage points from a bottom during the second half of 2010. Even with the lower outlook the price of structural steel remains more than 26% higher than last year.

The price of #2 diesel, like that of crude oil, remains higher than supply and demand support would suggest, although the commodity has fallen around 20 cents per gallon from the May high of \$3.22. Since last July the price of #2 diesel is also up over 26%. Refining capacity continues to lag demand, even at these lower levels, but the main support for #2 diesel pricing seems to be the elevated price of crude oil. That commodity has declined somewhat since April, but the price of crude oil – which closed at \$74 per barrel on August 20 – is essentially flat compared to August of 2009, even though optimism about the prospect of global recovery has fallen dramatically.

Similar pricing action has occurred in asphalt materials, a byproduct of diesel refining, and plastics, which have natural gas as their source commodity. Both have seen declines in recent months but have a 12-month trend that shows double-digit increases.

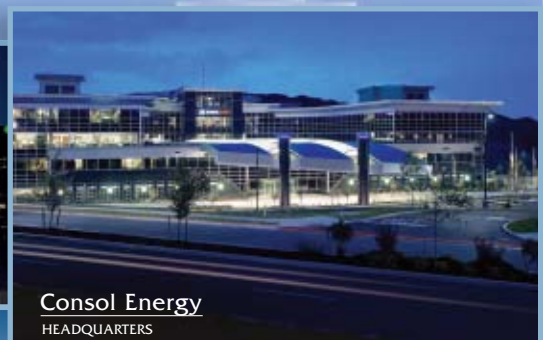
With the exception of stainless steel and iron ore, prices for construction products and materials are showing similar and stable pricing patterns as the third quarter winds down. Barring an unexpected acceleration of the economy, those trends will be with the industry into 2011. **BG**

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One of the interesting characteristics of the recent building boom, which now seems like a distant memory, is that the high volume of contracting was reached with relatively small participation from the public school market. During the late 1990's 'Plan B construction boom' a significant number of the projects, especially the larger jobs, were K-12 or higher education buildings. From 2005-2009 the driving force behind the good times was private investment, mostly in commercial real estate.



*Double stacked institutional designs are giving way to more campus-like schools. Pine-Richland's Eden Hall Upper School opened in 2009 (photo courtesy Eckles Architecture)*

an update







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**AS** the credit crisis has developed into an extended downturn in construction, public construction and educational construction of all types has become an important part of the market. Mostly by coincidence rather than as a government response, planning for a number of large school projects and major university projects were underway before the recession's effects were fully felt. Since then, federal and state governments have done as much as possible to further prime the pump by channeling money from the American Recovery and Reinvestment Act of 2009 into school projects.

The upshot of these varying market forces is that public and private education is at the forefront of the region's construction industry. What is ironic is that the educational sector would become vital again at a time when its various sub-sectors are facing key issues that will impact what kind and how much construction can be sustained. Unfavorable trends in demographics, charitable giving and endowment performance and public finance are clouds on the horizon. In the meantime, however, schools are in a healthy cycle and that's been a good thing for the past twelve months or so.

One of the myths about the market in Western PA is that public money, in particular the so-called stimulus, is the only construction market. In truth the private institutions have been active this year and the largest projects in the region have been privately funded. The four biggest projects, UPMC East, AK Steel, MarkWest's Majorsville project and the PA Water Plant improvements, account for over \$500 million underway and are all private. However, of the fifteen largest projects under construction in 2010, including those mentioned, ten have been educational projects and most of those are publicly funded. While education may not be the only game in town, the market would be in a lot worse shape without that sector's health.

Bethel Park High School	Bethel Park School District	\$ 73,321,745
Moon Area High School	Moon Area School District	\$ 62,061,660
Montour High School	Montour School District	\$ 44,527,882
California University Convocation Center	California University of PA	\$ 42,153,555
St. Vincent Dupre Science Center	St. Vincent College & Archabbey	\$ 36,000,000
West Mifflin Junior High School	West Mifflin School District	\$ 33,700,000
Robinson Court Olympic Sports Complex	University of Pittsburgh	\$ 33,000,000
Moon Area Middle School	Moon Area School District	\$ 32,290,615
Chevron Science Center Addition	University of Pittsburgh	\$ 32,000,000
New Student Union	Slippery Rock University	\$ 30,000,000

*Ten of the fifteen largest projects under construction in metropolitan Pittsburgh in 2010 are educational projects.*

In addition to the projects listed above a \$50 million-plus Connellsville school project recently bid, (although bids were rejected) and a half dozen other smaller projects ranging from \$10 to \$20 million are on the streets or about to be out in the coming month. A quick look at the pipeline shows that school work will play a big role in the 2011 market too, regardless of how much the private sector recovers. But before we look at what's coming up, here a few of the trends that are keeping educators on their toes.

## The Shift Toward Collaboration

Of the handful of trends affecting education design right now perhaps the most surprising is the embracing of collaboration as the defining characteristic of education in the K-12 environment. Mindful of the challenges of competing globally and with somewhat stinging input from higher education, elementary and secondary schools have shifted their education style towards collaborative, project-oriented problem solving as a key skill to be honed during a student's schooling.

"When we went to school they taught us to sit still, keep our eyes straight ahead and don't speak to the person left or right of us," says Rob Pillar, of Burt Hill's education practice. "Today's classroom environment openly encourages interaction and exchange of ideas. Those are the skills of the 21st Century workplace and that is what is being taught in the best schools."

"The influence of technology has changed the role of the teacher to more of a guide who can use the tools of technology to teach kids according to their style of learning. Like each of us has a preference about our working environment – temperature, whether we eat at our desk – the same is true of education," he says.

The sea change seems to be in accepting that the teacher can adapt to students' learning style as opposed to the students adapting to eight different teachers' styles all day. Starting with the concept that each student responds to environment differently allows the architect to challenge most of the conventions of school design. Double-loaded

corridors with students marching down two sides and 800 square foot classrooms oriented toward a lecturing instructor are conventions that aren't flexible or efficient. The traditional classroom can be rearranged but the limitations of the four walls don't necessarily optimize the school district's investment.

Pillar points out that a school requires a fair amount of space – corridors, lobby, and the site and commons areas – that represent a significant cost to build and that can be used to contribute to the learning environment in ways other than the traditional design.

"One of our most groundbreaking facilities is the Springfield Literacy Center in Philadelphia, where the goal was set ten years ago to have all the students reach 100% reading proficiency by fourth grade," he says. "The focus there is on reading but they use the building and grounds differently, so that each teacher can have several different classrooms to use. Depending on the lesson they might use the green roof



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or the tree house classroom that was designed. Spaces are used throughout the building for small groups or individual instruction as well as the full classroom."

Another byproduct of the focus on the individual learning is the quality of the physical environment itself. In very short order school districts have gone from seeing green building as a luxury to a necessity. Dan Engen thinks it's a good thing that districts are looking to codify energy efficiency and water conservation but sees the more important environmental issues as those that impact student learning.

"School districts doing projects should embrace green building from the start and it wouldn't be too difficult to achieve. It should be mandatory like getting the E & S plan approved," he says. Engen, a principal at VEBH Architects in Mt. Lebanon says architects have been championing energy efficient schools for years but that a healthy building is equally important. "Air quality, acoustical concerns and impacts on human well being are as important as better R-values."

One advantage of the traditional classroom is that it's a known quantity. Life safety planning or security has been worked through countless times. Re-working the design of the classroom and opening all areas of the building so that it enhances the learning experience means that designs will introduce new norms, and that can be discomfiting to architects and administrators alike. "When it comes to anything that keeps students warm, safe or dry I want to be very careful," says Engen.

"The human well being concerns will hit design like ADA did until they reach homeostasis," he says. "It hasn't hit home yet that ASHRAE standards are standards; manufacturers haven't been forced to deal with gases in materials; site security and exterior access control, ID cards for all kids, will all become bigger issues rather than smaller."

School designs have changed radically over the past century, but most adaptations were subtle differences until there was a sea change in educational or social philosophy. The K-12 schoolhouse of the agrarian Western PA was the original collaborative and flexible classroom, but it ceased to serve

the needs of education when the move to the cities began. The industrial model of school, with students moving as if on an assembly line of instruction towards an efficient education has held sway since the end of World War I. While a number of small changes were made to accommodate technology over the past twenty years most were mechanical or electrical in nature.

A widespread shift toward learning through interaction will change the game again for school design. If you imagine an environment where students aren't learning subjects in separate classrooms but as part of the process of solving a team project, it's possible to consider periodic student circulation and easily identified boundaries (Why aren't you in class young man?) as obsolete. A focus on how the student can best learn will extend to providing a light-filled, healthy, non-toxic environment as well as spaces that don't constrain collaborative learning. That these educational theories intersect with green buildings and make better use of facilities assures that planning for school projects will change sooner instead of later.

## Where Colleges Are Going

Just as educational theory seems to be making a dramatic change in K-12 education, significant shifts are taking place in higher education. For the better part of the past two decades colleges have been engaged in something akin to an arms race, upping the ante on improving the student experience through better food, apartment style residences and state-of-the-art exercise facilities. Many campuses created multi-purpose facilities that included private retail and dining. With rising enrollments and a consumptive economic climate, the universities could bank on higher tuition and alumni giving to fund the more indulgent facilities. Many observers viewed this trend as unsustainable over the long haul and the fall of 2008 proved that correct.

Even as the global recession pinched off gifts and fostered consumer austerity, most colleges raised tuition rates the past two years. Their previous plans virtually dictated that the higher revenue be pursued, yet the ever rising cost of higher education was running headlong into a new economic reality.

"There are some converging things going on that are going to have a long-term impact on colleges," says Alan Hohlfelder of MacLachlan Cornelius & Filoni. "As the use of technology increases the options for learning, more students are questioning whether or not they physically need to go to college. Online and distance learning are going to continue to grow."

When asked what the ramifications would be of more students opting to get a college degree without attending a campus, Hohlfelder didn't hesitate. "I won't be surprised to see more colleges close their doors over the next decade."

Whether a shift in the economics of higher education results in a shakeout or series of consolidations is unknowable at



## COLLEGE EDUCATION IS INCREASINGLY PORTABLE ...

this juncture, but the combination of technology and poor economy has changed the competitive landscape for the short term. High priced private universities are now losing students to state schools and state schools are now losing students to community colleges. The downshifting of expectations is combining with a tipping point in technology that will alter the character of the campus physical plant.

"As a business our obvious concern is that fewer students will mean less capital for construction," says WTW Architects' CEO Rich DeYoung. "But I think there will be opportunities because the forward thinking universities will be working to improve the facilities that attract students."

DeYoung sees two categories of opportunities. "The first is what we call quality of life centers. Student unions, housing, and recreational facilities are all areas that impact student life and the student experience as much as academics. Doing those kinds of facilities well has a big impact on student retention."

"The second area is the university's research base. Leading universities have facilities that attract research grants and the best faculty. The best professors attract the best students."

Alan Hohlfelder sees the decision-making process changing to align with the kind of strategic thinking DeYoung talks about. "Colleges will look at whether spending on facilities gives them a strategic advantage instead of making a country club out of a college. Schools have relied upon endowments,

appreciated capital or money from the states to fund their construction. All three have dropped off."

Another aspect of the changed thinking about facilities relates to the stewardship of the existing physical plant. For an institution that has the capital fund or fundraising to develop a new student life center there is still the challenge of making best use of the remaining facilities. For institutions who can't afford new buildings the need for best use is even greater.

Like the components of K-12 buildings that aren't used most of the day, college buildings with limited usage will be examined to see what other ways the facilities can further the school's mission. This kind of stewardship is hand-in-glove with a deeper understanding of the concept of sustainability that is more prevalent in facilities planning. Once the pioneers in doing green buildings, colleges have evolved their thinking about green to a broader emphasis on sustainability that includes curriculum, purchasing, food service and how they use their buildings. One type of building that is undergoing a radical transformation is the college library.

"Libraries are changing from places that warehouse books to what is typically called an information commons," explains Hohlfelder. "The purpose is moving to a facility that hosts sources and technologies for examining data, which no longer means books. These changes go to how the libraries are staffed and the types of activities that are encouraged. In many ways the library is becoming a social gathering place."

The changing college library is an excellent metaphor for how the landscape has shifted in higher education in a short time. Libraries are among the most iconic buildings at most schools. Most are named for donors, since it was an easy sell to a wealthy alum or industrialist who could see his or her name on a central cog in the learning machine of the last century. Today the library is evolving to include those portals for information that are still not portable, but those are dwindling.

College education is increasingly portable and more work is being done by students outside classrooms or even the university itself. Students and professors regularly share information using media that can easily be managed by handheld devices. As revolutionary as the Kindle or iPad seem to be in fall 2010, how primitive will they appear in 2015? Now bear in mind that the Class of 2015 will have to choose a college in the next six months.

## Where is the Student of the Future?

The demographics of education are among the most reliable predictors of future needs that exist. Assuming that birth rates are accurate, administrators could use that information to predict when more or less students would appear in elementary schools and on through the rest of their education. Since the 1960's there has even been relative stability in the share of high school graduates attending college so that even those demographics were fairly reliable. Now, however, there appears to be some uncertainty about the trend.

After speaking to educators you get the sense that a lull in attendance is expected in the latter half of the decade. Even without any radical changes in how students attend college there is the anticipation that the end of the college years for the Echo Boomers will bring a downturn in enrollment. To that end, the public schools are now seeing declining enrollments in many places. For how long this lasts, however, there seems to be disagreement.

The National Center for Education Statistics is the repository for the data on enrollment nationally and their information shows the 'slowdown' as little more than a flattening of the growth curve, or more realistically a decline in the rate of growth. According to data compiled by NCES and the Department of Education, enrollment at the K-12 level will increase by almost 20% by 2018, with the growth curve beginning to steepen in the latter years of the decade. Accordingly, the same data predicts that college, or post-secondary enrollment will be 10% higher in 2018.

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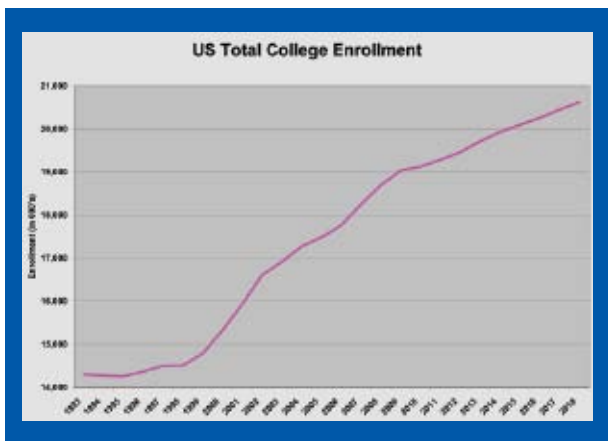
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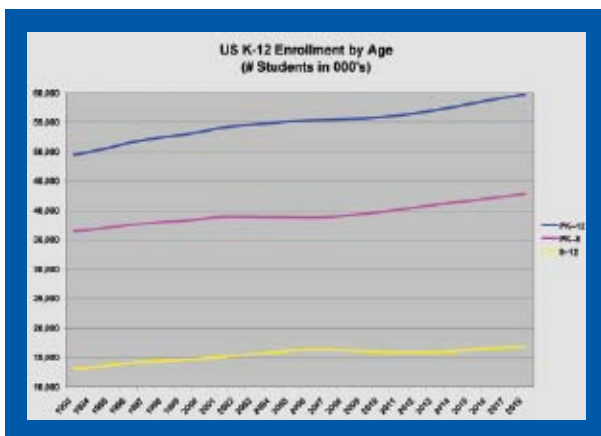
California University's dorm replacement program was one of the first of the PASSHE school initiatives to increase enrollment by offering more attractive amenities.



## COLLEGES AND UNIVERSITIES IN THE REGION ARE STILL MAKING PLANS FOR THEIR CAMPUSES.



Despite the recession college enrollment is expected to climb 44% this decade. Sources: U.S. Department of Education, National Center for Education Statistics, Integrated Postsecondary Education Data System



Sources: U.S. Department of Education, National Center for Education Statistics, Common Core of Data (CCD)

And while the forecast ends there, the logical extension of the steeper growth rate of K-12 in 2018 predicts that college enrollment will begin to climb faster in the 2020's.

What demographics can't account for is how this growing number of students will be educated. Architects like Alan Hohlfelder expect that future information innovations will include some sort of breakthrough that will change the landscape again, perhaps within the next five years. The nation's economy is currently mired in a condition that is more like the 1970's than any recent business cycle and that may become a deterrent to future higher education enrollment, or at least cause a more pronounced shift toward value in college education. Rich DeYoung thinks that any trend that suggests declining enrollment has to be fought off, almost as an act of national economic defense.

"The demographics that show declining enrollment are based on the assumption that the same percentage of students will be attending college," he says. "I think we have a challenge to continue to increase the percentage of students who get a college education. Americans have maintained an advantage for the past 50 years by leading in education and we are going to need to keep pushing education forward to remain competitive on a global platform."

## What Is In the Hopper?

School construction will continue to be one of the more active categories of construction in Western PA during 2011. Bigger private projects have been showing signs of life of late but the prospects for financing and recovery are still questionable. School demand, on the other hand, remains strong and the means for financing in the short term are

more attractive than ever. For 2011-2012 finding the major school projects is a matter of following the growth patterns in the region.

Capital programs have been ongoing in the areas with higher population growth – Canon McMillan, South Fayette Township, Mars, Pine-Richland, and Peters Township – or which have experienced significant shifts in demographics – City of Pittsburgh or Penn Hills – or which have ongoing support from taxpayers or tax base – Upper St. Clair, West Mifflin and Mt. Lebanon.

Among the K-12 projects being designed to bid and get underway by 2011 are the \$32 million Pine-Richland High School, the \$110 million new Mt. Lebanon High, \$60 million Penn Hills High School, \$50 million Canon McMillan school program, and two major programs in Centre County – the much delayed expansion/renovation of State College High School, worth between \$50 and \$75 million, and a \$50 million elementary school program at Bellefonte Area Schools. Smaller, but significant programs are being planned at Laurel Highlands, Indiana Area, Plum, Mars, City of Washington and Blackhawk.

Even in a tighter fundraising and financing mode the colleges and universities in the region are still making plans for their campuses.

## “CLASS, PLEASE TURN ON ALL YOUR CELL PHONES”

For private higher educational institutions the timing of the economic downturn hasn't been as unlucky as it could have been. While their ability to fund future projects has been limited, many of the regional private colleges have been under construction with major projects. Among these are CMU's \$81 million Gates Hillman Center, St. Vincent's \$35 million Dupre Science Center, Waynesburg College's \$8 million Roberts Chapel, Washington & Jefferson's \$33 million Swanson Science Center, and Mercyhurst's \$15 million academic center. Among the private institutions only Robert Morris University is doing new construction right now, with an \$11 million new residence hall and \$6 million business school getting underway.

Among the projects in long range planning for the private universities are a new \$75 million science facility at Grove City College, a \$65 million nanotechnology center and a \$100 million new



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Tepper Business College at Carnegie Mellon, Chatham University's \$60 million Eden Hall campus in Richland Township, Duquesne's \$20 million residence hall Uptown, the \$173 million Point Park Playhouse phase of the downtown campus and Marshall University's \$50 million biotechnology center. What these projects share at the moment is uncertainty about schedule.

The state's PASSHE system has been similarly aggressive in capital projects during the past decade, with new student centers funded at Indiana, California, Shippensburg and Slippery Rock, as well as massive dormitory replacements with apartment-style residences at Slippery Rock, Indiana, California, and Edinboro. With the state budget currently crimped for revenue, planning for new capital expenditures has slowed markedly. In the western half of the state only a few projects of significance are potentially in line for bidding next year.

In design now are the \$16.9 million Becht Hall conversion at Clarion University, the \$14 million Ross Hall replacement at Edinboro and a new \$28 million science and math center at Lock Haven University. The last 12 months have seen very few additional projects put forward for architectural selection through the state system however, and only two projects in Western PA have been put forward for funding of early stage design on PASSHE's 2010-2011 capital plan.

Pitt will bring two major projects to the street next year with the aid of partial funding by DGS. The \$70 million second phase of Benedum Hall's renovation and the \$34 million Parran/Crabtree project for the Graduate School of Public Health will keep cranes in place on its mid-campus. Further out in planning is a major expansion of its on campus housing with the addition of as many as 1,000 beds on the Fifth Avenue corridor.

Changes in educational philosophy and the influence of 21st Century austerity and sustainability will clearly alter what is built in American educational facilities over the next decade or two. Collaboration and new technology offer excellent opportunities for taking the education of our future generations to a significantly higher and more competitive level; but at the same time they require paradigm shifts in what is perceived as normal for classroom comportment and what is required in skills by teachers. The PSEA ensures stability for teaching, but that can easily translate into intractability about adapting teaching requirements or standards. How quickly do you see a class beginning with the instruction, "Class, please turn on all your cell phones"?



*Architects' rendering of Duquesne University's new residence hall.*

In Pennsylvania there is likely to be a legislative and lobbying battle over the funding of schools and school construction. Even with the state kicking in an additional \$250 million this past fiscal year there are gaps in funding that are apparent, especially in light of the legacy pension costs that are accruing.

"We've increased funding by more than \$500 million over the past two years but it will not change the trend of shortfalls unless we come up with ways to make education more efficient," says Rep. Mike Turzai (R. 28th District-McCandless). "Local school districts should have the option to make changes that increase efficiency. We have to look at defined contribution pensions – private industry has been doing this for years. For construction we ought to look at private/public partnership options like are being done in Virginia now. And local districts should have the flexibility to



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make choices about procurement that they feel are in their taxpayers best interest, whether it's single prime, multiple prime or construction management."

The difficulty in funding capital programs in both the public and private educational sector is likely to be short-lived.

American values include better education for our children as a high priority. For the next few years, though, tracking construction in schools will mean adapting the advice given by Watergate's informant 'Deep Throat'. Instead of 'follow the money' the sounder advice is 'find the money.'

PA Cyber School's new office at 625 Midland Avenue.  
Rendering by Hayes Large Architects.



## A Cyber Renaissance for Midland

One of the main competitive advantages for cyber schooling is that the education can be delivered without the considerable expense of maintaining a physical plant. In Midland, however, the growth of one Cyber School has meant a boom of bricks and mortar.


In 1997, a new charter school law in Pennsylvania created a new opportunity for the community of Midland. One educator, Dr. Nick Trombetta, had a vision that an online school could take hold and founded the Pennsylvania Cyber Charter School to accept students in the fall of 2000.

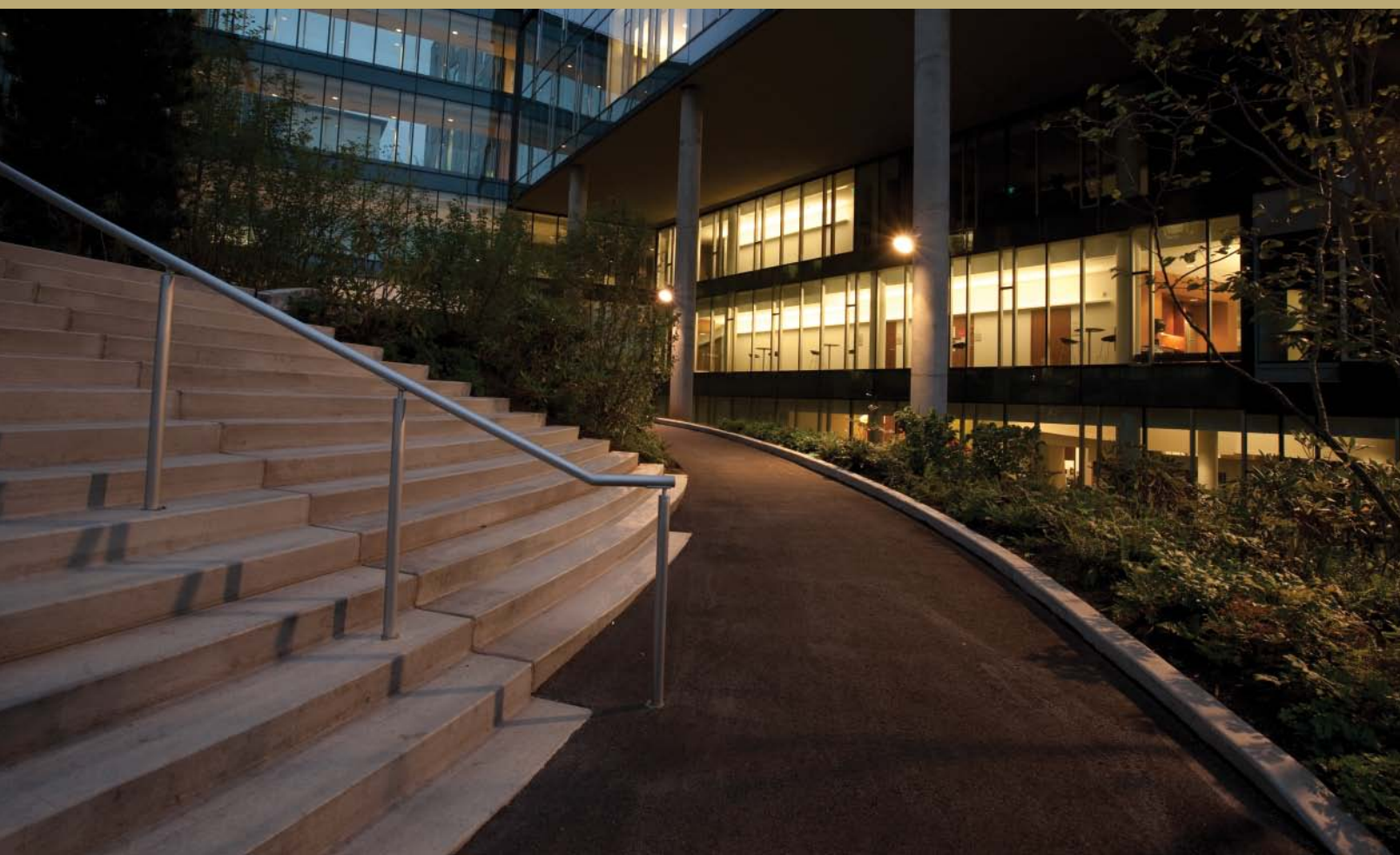
Originally designed to provide educational services to approximately 50 students from Midland, the PA Cyber had over 500 students enroll in the first year and it has seen rapid growth ever since. In 2006, PA Cyber had over 6,000 students and it anticipates the fall 2010 enrollment to top 10,000 students.

While the students can learn from home, the growth of the student population necessitated adding common facilities to offer opportunities for labs, arts and music. Plus administering a school system with over 1,000 graduating seniors each year has created the need for space.

PA Cyber renovated several old downtown buildings for administrative and educational use as it grew and its related Lincoln Park Performing Arts Center undertook a major adaptive re-use of Midland's former Lincoln High building, but the exponential growth of the past few years has put a building cycle in high gear.

Construction is nearing completion on an 11,000 square foot, \$2 million child care center for PA Cyber's employees. A developer, Southland Enterprises renovated a commercial building at 722 Midland Avenue for PA Cyber's special education program. Construction is underway on a \$2.5 million renovation of the former USW Local 1212 hall for use as a virtual classroom. And the school is out for bids on its crown jewel, a \$4 million, 25,000 square foot new business and administrative center at the site of the former First National Bank at 652 Midland Avenue. Lincoln Park Center is getting into the act as well, planning a 26,000 square foot facility for classrooms and dining.

Midland hasn't seen this much construction in 20 years, at least not until a school with no buildings started building. 



# GATES & HILLMAN CENTER CENTER FOR COMPUTER SCIENCES FOR FUTURE GENERATION TECHNOLOGIES

In the fall of 2009 Carnegie Mellon University opened its newest facility to the public. The two linked buildings, referred to collectively as the Gates Hillman Center fill in a hole that existed in Carnegie Mellon's campus, in a corner that vice provost Ralph Horgan affectionately calls "the backside of campus." Gates Hillman is a modern, metallic, multi-shaped pair of structures, unlike any other buildings on the campus. Yet the germ of the design was the architecture of the original buildings.

"Carnegie Mellon is one of the most unique campuses in the country because of the way it was founded, because of Andrew Carnegie and his architect, Henry Hornbostel," explains Mack Scogin, partner in Mack Scogin Merrill Elam (MSME). "Our firm spent time studying Hornbostel and we found that he was very

idiosyncratic, a truly American architect. We think he's much underestimated as an influential architect."

Elam and his associates had the advantage of being able to study Hornbostel's work at Emory University in the firm's hometown of Atlanta. After looking closely at the architect's plans and built work at CMU, Scogin realized that Hornbostel was doing very unusual designs even though he was often working with classical forms.

"I see his work as very unusual in plan sections, material choices, et cetera," says Scogin. "Who else would do a campus [Carnegie Mellon's] where the main building is a power plant and the other end of the axis was a school of art? Our choices of colors,



materials, window details, elevations all came from looking at Hornbostel and how he related his buildings to the campus.”

“The design flowed from a client that was very intent on having a building with a certain level of difference from the others on campus. Someone, somewhere along the line decided that there would be no buff brick on this project. Gates Hillman was meant to show how distinguished Carnegie Mellon is in this field and give a new identity for computer science on campus. And the administration was aware that the difficulty of the site – you could almost argue it was impossible – dictated that we use Gates Hillman as a new front door to the campus”

The new identity Scogin speaks of actually goes back to well before the Bill and Melinda Gates Foundation made its \$20 million gift in 2005. Carnegie Mellon School of Computer Science’s point person for the project was Guy Belloch, the associate dean for planning. He says the need existed before he joined the faculty.

“Computer Science (CS) had asked for a new building since before I came to campus twenty years ago,” he says. “CS has most of its offices in Wean Hall but there are offices in buildings all over campus. This building presented a good opportunity to integrate all the CS staff and accomplish a connection to the West Campus.”

Connection and collaboration are two concepts that you hear repeatedly used to describe both the Gates Hillman Center and the process of delivering the project. The concept originated with the board of trustees and CMU’s president Jared Cohon. Computer science had broadened as a field of study at CMU over the years and Cohon believed deeply that the study and research done at the university applied directly to the sciences and arts, and that Gates Hillman needed to reflect the intersection of computers and the arts. Carnegie Mellon put the commitment to collaboration in practice during the earliest planning sessions, including CS staff like Guy Belloch at the very beginning before the grant proposal was submitted to the Gates Foundation. Three members of the CS faculty were on the selection committee. Their input helped convince the board that a modern design was needed to meet the unique needs for the facility, a decision which helped move the selection committee towards a choice of style. After reviewing the responses from architects from all over the country, CMU’s selection committee narrowed the choice to Rafael Vinoly, Kohn Pedersen Fox and MSME.

“We visited dozens of recent computer science buildings all across the U. S. while we were planning the project and interviewing the architects,” Belloch recalls. “We saw two MSME buildings – one a new building at Wellesley College – and we were just blown away.”

By the time Mack Scogin Merrill Elam were brought on board, conversation about the Gates Hillman Center revolved around the same three ideas that you will still hear repeated today by anyone involved with the project: collaboration, connection and site. By the time design was complete, the three concepts were

inexorably joined in the building’s design. But to begin with there was the site.

Gates Hillman is built on a portion of Carnegie Mellon’s campus that was deemed unusable until this project forced the university to examine it. Located just to the west of the Purnell Fine Arts Center and east of the Newell Simon buildings and Hamburg Hall, the project site consisted of a 75 foot slope descending to a level below the Forbes Avenue that was a service area for the buildings that make up West Campus.

“At the bottom elevation were the loading docks of five separate buildings that were served by an access road that you could take through West Campus if you knew it was there,” explains Ralph Horgan. “There were also several small buildings that really didn’t work very well that had to be demolished, but together they made up about 35,000 square feet for 27 different user groups. That had to be accounted for when we planned Gates.”

The demolition of these outlying buildings was part of an early budget hurdle to overcome. Carnegie Mellon had to respond to the request for proposals from the Gates Foundation before there was a fully developed program for a new facility. In their haste to pull together a grant request, the various input groups simply forgot about the old buildings. When Horgan was hired in 2005 the \$20 million gift had already been awarded with the obligation to construct 150,000 square feet. With CMU’s portion of the funding, Horgan’s group was given a \$55 million budget to construct the project, a budget that did not account for any soft costs, let alone an extra 35,000 square feet to accommodate the displaced users. In time, another 30,000 square feet of scope creep brought the new requirement for space above 215,000 square feet and added another \$25 million to the cost.

This problem ended up offering an opportunity to solve other unrelated problems nagging the early planning of what was then simply the Gates Center for Computer Science. Carnegie Mellon’s leadership was committed to having the building be a public space, especially to the idea of using the infill of the building to connect several campus communities. The School of Computer





*Interior office windows (upper left) take advantage of the building's daylighting design.*

Science was pushing for quiet and secure space, especially for the graduate students who would be spending extended periods doing research in collaboration there. The expanded project scope meant that a creative funding solution was needed. As the programming for the building progressed it occurred to Carnegie Mellon that the needs of the users – and the development staff – could be met by separating the facility into two buildings. The Gates Center would hold the classrooms, administration and public areas. The other building would be the site of the research and offices, and it would need its own name.

While the ever-shifting requirements made developing a design more difficult, the primary challenge of designing the new centers had yet to be resolved. The form of the building still had to account for absorbing the 75 foot change in elevation. Charged with creating a public space that was a connection point, Mack Scogin faced the task of establishing a ground level to anchor the building.

"We spent a tremendous amount of time analyzing the campus, observing and talking to people to try and predict the circulation

patterns of the students and choosing which paths we should include in Gates Hillman," says Scogin. "Computer Science had changed so much over time from strictly research to teaching and integrating with other schools that we felt it was necessary that we bring the students and community into the building. But it's a very unusual mindset to allow people to enter a building at so many different levels. Again we had to consider this whole idea of connectivity."

The question of connectivity was somewhat larger than just that of having multiple "front doors" by creating access on more than one level. CMU's concept of connectivity was built upon the Michael Dennis & Associates 1990 master plan, which established an east-west spine running from Margaret Morrison Place to the newer Carnegie Mellon facilities on South Craig Street. This spine was parallel to the Hornbostel Mall of the original quadrangle and perpendicular to The Cut, which ends between Purnell and the student center. The Gates building was to be built directly along the east-west line, but the university wanted it to connect physically to the fine arts buildings on The Cut and the science buildings on the West Campus.

What Scogin devised was a three-level helix in the center of Gates that would use the fourth floor as the "ground." His plan created a pedestrian bridge from both Purnell and Newell Simon that connected with Gates level four. The helix itself was a pedestrian walkway within the building that could be accessed on floors three through five and connected to all public levels of the building. The termination of the helix is at the third floor café, which is at the actual ground level of Gates Hillman as it relates to the West Campus, opening up onto one of the landscaped open spaces.

"Mack wanted the three floors that touched the helix to be open to the public," says Horgan. "These areas are available for the students to meet in the collaborative spaces or the café at all hours, but above the fifth floor the space is for offices and grad students. The elevators and stairwells lock down above five in the evening and you only go there if you're collaborating with the computer research or faculty."

Another significance of the fourth floor was that it connected by extension through Newell Simon and on to Wean Hall through a series of pedestrian bridges. Or at least it did after the local architect for the project, Gary Carlough of EDGE Studio, designed an infill pedestrian walkway on the upper level of the Newell Simon atrium, allowing students using the walkway between Wean and Newell Simon to continue uninterrupted on to the bridge to Gates Hillman's fourth floor. While that may not sound like a smooth transition, visitors will notice a long line of pedestrians moving smoothly between the three buildings when classes change.

The link to Newell Simon from Gates was one of those scope items that Ralph Horgan thought might be an overreach. "When we got numbers back on the pedestrian bridge the cost was well over \$500,000 and I thought that was something we should VE out," says Horgan. "As I was proposing this to Jerry Cohon, I said that we were going to spend more than a half million dollars



just so kids can walk between two buildings. His response was, 'Exactly.'" Cohon will occasionally remind him about the importance of the connection by referring to it as the 'Horgan Bridge.'

As all these design decisions were being made the university decided to bring a contractor into the process. Because there was another major complicated project being planned just south of the Gates site, CMU asked a small group of contractors to provide preliminary estimates, qualifications and construction management fee proposals for both Gates and the second job, the second phase of Doherty Hall's renovation. PJ Dick Inc. had been the construction manager for the first phase of Doherty Hall and was among those competing for the projects. When the dust settled they were disappointed to learn they were not going to do the second phase of Doherty, but elated to be told that the Gates Center would be their project.

In May of 2006 the first stages of work got underway with the demolition of the buildings in the Gate site. During that summer a major site utility relocation project was done to provide adequate utilities to the new building and the beefed up West Campus. Construction on the new building got underway the following February. But the complex was still being referred to as the Gates Center and the 'Donor X' Building.

As the structural steel and concrete were going up, two significant achievements of the School of Computer Science added momentum to the search for a donor. In November 2007 the university's robotic vehicle won the Department of Defense's Urban Challenge, and School of Computer Science faculty member Edmund Clarke was awarded the A. M. Turing Award – the Nobel Prize of computing – in February 2008. Later that month the Henry L. Hillman Foundation announced it was awarding \$10 million for the construction of the research building.

While construction on the \$81 million building was completed in another eighteen months there were a few bumps along the road to completion.

First and foremost among the challenges was the site. "It wasn't just that the building was going to be on a site that dropped 75 feet that made it challenging," explains PJ Dick project manager Ralph Shipe. "There was also the tightness of the site on the east side. As the building went up there was less and less space to work because we were in the hillside."



"The other big problem the project presented was that the design is so unusual," Shipe says. "To give the users of the building interesting sight lines the architect shifted sections of the building every two floors and made cantilevered overhangs. Access to the wall sections was very difficult because you couldn't scaffold and when you used a swing you could only reach two floors. That aspect of the design made it much more difficult for Cuddy and Wyatt."

The building's exterior was a multi-layered assembly which consisted of an aluminum and cement composite substrate board, called Cemalum, that was meant to be fabricated and installed as the building's thermal envelope in the profile of the unique window design of each section. The visible exterior of the building is a rain screen composed of two different types of zinc panels or shingles that were fabricated to assemble as multifaceted shapes around the punch-out windows. On paper (or in digital 3-dimension) the tolerances between the Cemalum and the zinc appeared to be normal, but in the field there was nothing normal about the system.

"The exterior, the zinc rain screen has never been done in this region before," says John Taormino, operations manager for PJ Dick. "There were so many angles on the window surrounds."

Carl Humes is Cuddy Roofing's chief operating officer and he expels breath slowly when asked about the difficulty of installing GHC's exterior. "There were two types of zinc. The darker, diamond-shaped zinc – Anthra zinc – could be fabricated in a standard way and installed pretty straight forward," he says. "The lighter zinc that acted as the window surrounds is Rhein zinc and it was a problem."



*The design of the cut aluminum railing on the Pausch Bridge includes abstract images of Pausch's 'brave penguins'*

Listening to Humes' explanation of the field installation you quickly realize that 'it was a problem' is quite an understatement.

"The fabrication of the window surround had to be done in three dimensions with compound angles," he begins. "There are 220 windows and 32 different window types. Originally we thought there would be four pieces of the zinc shingles needed to surround the window. After we engineered it we thought it would be eight. By the time we had completed the shop design there were 32 separate zinc pieces and fasteners needed to complete each window."

Cuddy expected to work through the fabrication of the first few window types and then develop the means to repetitively crank out the components. They used this assumption like they would on any project when they priced the work. But the assumptions never came true.

"The thing was, Wyatt had the same issues trying to do their work because the walls couldn't be standardized," Humes says. "They didn't know how intolerant the design was because they weren't putting the zinc shingles on. We tried to systematize the assembly but ultimately we had to custom fit every component of every window."

Unlike a linear repeating exterior, like horizontal siding, where the tolerances can accumulate and be accounted for at the end of a run with a fitting cut or a wider piece of trim, each piece of the window surround assembly had to be altered to allow for the tolerances of the previous piece. And the tolerances were in three dimensions; that is, variances were not only in fit for length and width but also depth. For Cuddy the installation became a two-man job to measure and fabricate each component piece, sometimes while working from a swing stage that was 120 feet in the air. The complications became a schedule buster that had to be solved.

"We didn't really get the problem solved until everyone involved got in the same room and put their agendas and their own costs aside," says Humes. "PJ helped by giving us freer access. Wyatt agreed to take extra steps to be more precise and we had to put together a 40-man crew working double shifts at times to get it done."

Meeting the schedule would prove to be an enduring challenge. All the members of the project team were accustomed to working school projects, which require that work be done in time for students to return in the fall; but none had much experience with the kind of schedule milestone that was at the end of this project: on September 22, 2009, Bill Gates would be coming to cut the ribbon.

"There were so many zigs and zags off the critical path," recalls Ralph Shipe. "Some of the field problems we encountered required more time than usual to solve and CMU wanted to serve Computer Science, almost down to each individual working in the building."

In September 2007 a seemingly unrelated event on Carnegie Mellon's campus created a notable detour in the critical path. A brilliant and popular computer science professor named Randy Pausch had used the diagnosis of terminal cancer to deliver an extraordinary message to the school's students in what he called his 'Last Lecture.' He wrote a book to serve as that lecture and then delivered the lecture on September 18, 2007. When he passed away the following July, CMU chose to honor Pausch's legacy by dedicating the pedestrian bridge that would connect Gates Hillman to the Purnell Center in his name.

The original design of the bridge was a concrete structure with a steel post and cable railing system similar to those used elsewhere on campus. To honor Pausch's metaphor of the first brave penguin to take the plunge into the water, Mack Scogin created an aluminum railing system that had abstract penguin shapes cut into it. The railing is lit from within by 7,000 programmable LED lights.

As the project was designed and constructed, work proceeded with a goal of creating a building sustainable enough to achieve LEED Silver certification. Upon completion, however, the Gates Hillman Center exceeded the goals of the plan and pending the outcome of the final commissioning report may achieve LEED Gold.

On September 22, 2009 the building opened as planned with dedication speeches by Bill Gates and Henry Hillman. The completed building managed to meet all the needs of the School of Computer Science while establishing the connections throughout campus that the administration envisioned. In addition to the computer science classroom and research space, GHC includes a 150-car parking garage, the 'R' Bar (named for donors Jim and Sharon Rohr), the Planetary Robotics Lab, 300 offices, 11 conference rooms and the 250-seat Rashid Auditorium named for Microsoft sr. vice president of research and former CMU professor Rick Rashid.

The interior of the Gates Hillman Center seems almost tame in comparison to the building's unique exterior design, but in fact the materials used are very rich and further express the building's mission of facilitating collaboration.




As a means of aiding wayfinding, the main corridor system is finished in hardwood flooring. Carpet is used on any branches off the main. Most of the wall systems are fairly institutional in finish but throughout the building are small areas with finishes and furnishings that make collaboration possible. At almost every corner or turn in the corridor system are furnished sitting areas with white boards and communications connections. The architect created these areas in response to what he learned about how the best work was done in CS.

"I was surprised to find out that much of the work gets done in these kinds of spontaneous, seemingly casual conversations where the students and researchers share their most creative ideas," says Mack Scogin. "The spaces are meant to attract those conversations and the furniture was chosen to be fun and comfortable and challenge the scientists."

In other portions of the building seating areas are dedicated for use in reading or other quiet and private study. The design of these spaces is different from the collaborative space, offering smaller areas with less furniture. Even the wall finish expresses the desire for quiet as each of these areas has colored acoustical panels in place of the whiteboards.

The overwhelming design element throughout GHC is light. Sunlight is brought in from all sides and from above. The central spaces of both buildings are as open as possible to the exterior and above. One of the most impressive statistics about GHC is that every one of the offices has a window, including the nearly 100 offices that are on the interior of the building. Opening out into the light-filled center of the building, the windows in these offices provide both light and a way to see their fellow researchers collaborating below. Scogin says that the windows were less about light than the desire of the School of Computer Science to recognize the importance of each individual.

"The Gates Hillman Center is ultimately meant to recognize a central virtue that defines Carnegie Mellon," he explains. "It is meant to celebrate the individual's contribution within the collective." 

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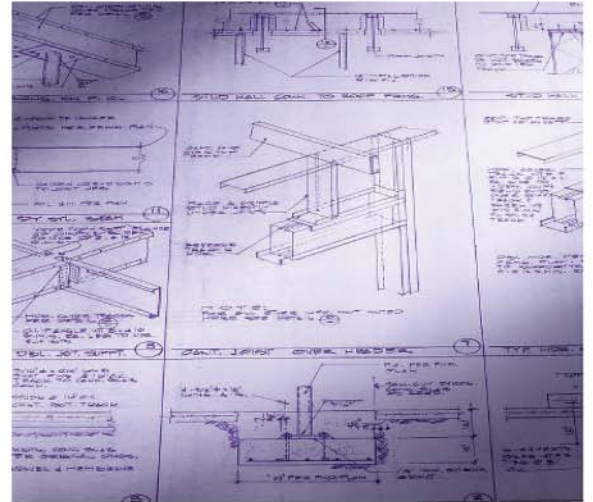


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"Schools are exciting because there are so many aspects that are different in one school from another," says Bob Naugle, the firm's current president. "The beauty of school architecture is the effect that you can have on people's lives in a variety of ways for generations. Good design can inspire teachers to teach and students to learn. Schools give us a chance to design a theme that reflects the individuality of a district or a community."

Naugle's predecessor, retired president R. Kay Thompson, enjoyed the depth of experience that he felt came from exploring school design more fully. "I believe architecture is like medicine or the law in that we develop expertise or knowledge and tend to specialize.

Our firm's real knowledge and expertise, and our ability to sell it is in K-12," he says. "I've worked for many superintendents and school boards over the years who have asked us to guide them through the process. It made me very comfortable talking to school boards when they knew that I knew more about construction than they did."

Getting good at school design is critical if your firm is going to spend over a century serving that market. In the

case of Eckles, educational projects have always been at least 50% of the firm's billings throughout all of its 112 years.

William G. Eckles founded the firm in 1898 with the intention of developing a general architecture practice to serve New Castle and the surrounding area. New

Castle was in the midst of becoming an industrial city, which was attracting workers from the surrounding farms. As more farmers gave up agriculture to make a living in a factory, the need for newer and bigger schools grew. New Castle was also very close to five small colleges that were growing up at the turn of the century. While W. G. Eckles & Company designed local offices, banks, factories and

stores, it was almost inevitable that there would be a heavier share of educational building commissions available.

In 1910 the firm was selected by the New Castle School District to design a new high school. It was the first big school project for W. G. Eckles, and it would mark the beginning of a working relationship that has endured to this day. In

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the first few decades of the 20th century, Eckles designed many of the iconic buildings at Grove City College, Westminster College, Thiel and Geneva. By the time World War II ended the firm had been the architect for roughly half the buildings on Grove City and Westminster's campuses, as well as nine of the buildings at Slippery Rock University (then Slippery Rock State Teachers College).

During the 1950's a sea change occurred that boosted the public school market. Post-war America found itself the strongest economy in the world and the opportunities that accompanied that new role created demand for better educated managers and professionals. Educational theory shifted towards a model that required more resources per student. This model didn't work very well in the small rural or neighborhood school districts that dotted the state. Keeping up with the latest trend in education meant that small schools needed to merge to stay relevant. As an incentive for mergers, the state of Pennsylvania offered better reimbursements for projects that arose from merging districts. Add to these incentives the beginning of school years for the Baby Boom and the result was an enormous increase in school projects.

The boom in school construction – which was followed a decade later by a college building boom – offered an excellent opportunity for growth for firms with solid educational resumes. For W. G. Eckles the building boom in schools brought about an ever greater concentration of education projects than before. From that point on schools would comprise three out of four projects of the firm's portfolio.

By the 1960's W. G. Eckles was into its third generation of ownership. Robert Eckles had taken the reins of the practice from the founder in 1932 and in 1950 his son William G. Eckles II was named the president of the company. During the decade, two of the firm's future leaders, Bob Naugle and Kay Thompson would join the practice. By 1970 both of those men had become partners in the firm, along with David Strizzi and Vincent Lamorella, as Bill Eckles looked to broaden the partnership beyond the family.

During the 1980's the firm completed the transition from family business and added one of the men who would become principal, David Esposito. In 1986, Kay Thomson succeeded Bill Eckles as president. Esposito became a principal in the firm in 1991 and James Hubenthal followed in 2001. That year also marked Bob Naugle's appointment as the fifth



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president of W. G. Eckles. By the time Naugle became president the partnership had celebrated its centennial, incorporated as Eckles Architecture and Engineering, and had acquired J. S. Young & Associates Engineers in Grove City, PA. Four years later Eckles acquired its long-time mechanical and electrical consultant, Pascoe Engineering of New Castle.


Eckles Architecture & Engineering has had exceptionally stable leadership over its 112 years, with very little change in ownership or direction for a company with its longevity. Its concentration on the educational market has remained strong and its confidence in that market has allowed Eckles to pursue very little work outside the education sector. The same steadiness hasn’t characterized their principal market however.

Pennsylvania’s mechanisms for financing schools and its lack of referendum for K-12 construction has given local school boards the freedom to grow or update schools as they saw fit. That has made school work almost a constant in the market, but the way boards have approached capital projects has been anything but constant.

Eckles Architecture has always placed client retention high in its priorities. They try to price their services to allow for the necessary research and attention to detail so that they can leave a school district feeling they received the

best service. Board dynamics have shifted from the kind of loyalty that older architects grew to expect to a more price sensitive model of procurement that has meant loyalty is a thing of the past. Eckles has kept the business of a number of school districts for extended periods and has concluded that the risk of losing a client to bad service is greater than the risk of being outmaneuvered.

The mercurial nature of school districts doesn’t always work against the firm, of course. Eckles currently has projects on the boards at several new clients, such as the \$40 million Laurel Highlands School District, \$25 million Case Elementary in Sharon and the \$50 million elementary school projects at South Fayette. These projects complement work with repeat clients like the \$20 million Quaker Valley Middle School, the \$35 million Pine-Richland High project and \$25 million in projects with New Castle School District.

“We’ve been working for Pine-Richland for more than 20 years, and we worked for DuBois for more than 25, and of course we’ve been New Castle’s architect for 100 years,” says Naugle. “The only way we know to maintain those relationships is to give the best service and attention to the client’s needs as possible, and even then it still might not matter because of a new board or some change in board sentiment.” Naugle says he’s come to accept that board changes and politics are beyond the firm’s control. “I just can’t see how giving bad service can improve our chances of keeping a client.” 

## COMPANY FACTS

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32 Employees



# Legal Perspective

## CONTRACTORS ON PROJECTS INVOLVING FEDERAL FUNDS BETTER DOT THEIR I'S AND CROSS THEIR T'S (AND MIND THEIR P'S AND Q'S)

By William Clifford & Jeff Hantz

The following scenario is playing out countless times throughout the United States today: A multi-million dollar public works job to improve infrastructure is about to begin. Public money is utilized, but not just federal money earmarked from the American Recovery and Reinvestment Act of 2009, though certainly this project will have its slice of the \$787 billion pie. Money from the state government and local government is also used. All of the money is placed into a pot and mixed, so contractors never know which governmental entity provided the specific funds for any payments. Bids are accepted from contractors, who have all agreed to adhere to all federal and state regulations. The winning bid is chosen, the contracts are executed, work proceeds and upon the submission of all required certification and pay applications the private entity or the state will then disburse the public funds to the contractor.

This scenario highlights an issue that has been contested for two decades, namely whether a claim can be made under the False Claims Act on non-federal projects involving federal funds such as the project described above. Important recent changes to the law involving federal funds can drastically affect liability for a contractor's misstatements, intentional or otherwise, that are relied upon to procure federal funds. It is important, therefore, that contractors understand the Fraud Enforcement and Recovery Act of 2009 ("FERA") and its far reaching changes to the False Claims Act.

### THE FALSE CLAIMS ACT PRIOR TO 2009

By way of background, pursuant to the federal False Claims Act ("FCA"), allegations of false claims against contractors can be prosecuted by the Attorney General's office or a private citizen acting on behalf of the federal government. This concept of empowering a "private attorney general" to pursue redress on behalf of the federal government had its genesis as the result of the

"house divided" condition that our nation found itself in at the time of the civil war. Human nature being what it is, contractors perpetrated massive fraud on the federal government. In response, the earliest version of the FCA was enacted that included a provision empowering private citizens to pursue contractors that defraud the government. This provision was a recognition that the resources of the government itself were insufficient to carry out the full intent of the FCA. As a result, President Abraham Lincoln signed into law this far reaching piece of legislation.

Changes to the FCA were most recently made in 1986. Included in the 1986 amendments were increases in the civil penalty for violation of the Act and the reward for the private plaintiff, the provision of attorney's fees for the private plaintiff and employment protection for whistle blowers.

In addition, pursuant to the 1986 amendments, a person could be liable pursuant to the FCA under several circumstances. The most commonly applied provisions were found at 29 U.S.C. §3729(a) (1-2). Pursuant to §3729(a)(1), a person is liable if they present a false claim to the federal government for payment. Pursuant to this section of the FCA, liability for a false claim could only attach on projects where the federal government retained the project funds and disbursed them to private entities or state/local agencies upon presentment of claims for payment based upon payment requests from contractors on the project ("Direct Funding"). Conversely, this section did not apply to projects involving a general grant of funds by the federal government to a private entity or state government retaining no responsibility for or discretion over disbursement of funds to contractors on the project. This is so, because the "presentment" requirement could only be satisfied if the claim was actually "presented" to the federal government for payment ("Indirect Funding"). Where Indirect Funding was involved, because the funds were generally dispersed to the private or state entity with no discretion or involvement by the federal government involved in the payment process, it was not possible to establish a presentment of the claim to the federal government for payment.

While §3720 (a)(1) clearly excluded from the coverage of FCA projects involving Indirect Funding, Section 3779 (a) (2) left a crack in the door for the application of the FCA on projects involving Indirect Funding. In this regard, §3729 (a)(2) had no requirement of "direct presentment" to the federal government of a false claim. Rather, the provision imposed liability on any person who knowingly



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used a "false record or statement to get a false or fraudulent claim paid or approved by the government." Since this section did not specifically require the express presentment for payment requirement, Courts disagreed as to whether a claim could be made out pursuant to the FCA pursuant to this Section where Indirect Funding was involved. Ultimately, in 2008 the Supreme Court of the United States in its decision in *Allison Engine Co. v. United States, ex rel Sanders*, 128 S. ct. 2123 (2008) resolved the debate. In short, the Court ruled that the FCA, including §3729 (a)(2), did not apply to projects involving Indirect Funding.

As a result of the Supreme Court's decision in *Allison Engine*, since 2008 the application of the FCA on federally funded construction projects was clear. Contractors and subcontractors had essentially no potential liability under the FCA in connection with its claims for payment on government construction projects involving Indirect Funding. Thus, an entire segment of federal projects were excluded from the purview of the FCA.

In our hypothetical at the outset of this article, the large public works project that could only be completed with funds set aside by the largest government spending initiative in this nation's history would rely on state law alone and not the FCA to police fraud and misrepresentation. As a specific direct response to this state of the law as announced by the Supreme Court in *Allison Engine*, on May 6, 2009, President Obama signed FERA into law bringing far reaching changes to the False Claims Act.

## IMPACT OF FERA AMENDMENTS

The FERA amendments specify that they are to be retroactively applied to any FCA claims pending or before June 7, 2008 which, not coincidentally, is two days prior to the date that *Allison Engine* was decided. The FERA amendments are not styled as an amendment to the FCA but rather as "clarifications to the False Claims Act to reflect the original intent of the law." Certainly the most important effect of the FERA amendments on the False Claims Act are the amendments to §3729(a) and (a)(2). The new §3729(a) now provides for liability for any person who "(a) knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval" or "(b) knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim." No longer does a claim have to be "paid or approved by the Government."

Section 3729(a)(2)'s replacement no longer requires an intent to defraud the government through the government approval or payment process. Without this requirement, Congress has effectively overturned the Supreme Court's holding in *Allison Engine*. So long as there is intent to present a false or fraudulent claim or make or use or cause to be made or used a false record or statement on a project in which the government has a financial interest, FCA liability will attach.

These changes are especially significant given the broad definition of "knowingly" under the FCA. Under the FCA, a person acts knowingly if they have actual knowledge of the information, acts in deliberate ignorance of the truth or falsity

of the information, or acts in reckless disregard for the truth or false of the information. No specific intent to defraud is required.


As a result of FERA's impact the potential exists for large liability for small errors. Because someone is acting with the appropriate intent if they have actual knowledge of the information, a simple typographical error made by a contractor could trigger a false claim liability. Courts are just now beginning to find that the FCA as amended by FERA will apply to cases in their courts. In *U.S. ex rel Westrick v. Second Chance Body Armor*, 685 F.Supp.2d 129 (D.D.C. 2010), the District Court for the District of Columbia found that a complaint was sufficient merely by alleging a false certification and knowledge of its falsity, even though the certification was submitted to a private party.

There are now many situations where the government has played no role, but actual damages and civil penalties could accrue under the FCA. Now more than ever, it is extremely important for government contractors, subcontractors or anyone working on a project in which the federal government has or claims an interest to be vigilant when completing their payment requests, certifications or any paperwork involved with the project. Any error, however minor it may appear, could become very expensive for the one who made it.

In our hypothetical construction project, there is now a real danger of FCA liability for misstatements in payment applications, MBE and DBE certifications, progress reports and most documents involved in the project. It is very easy to imagine a situation where the contractor knows 20 hours were paid for work completed by an MBE subcontractor. The general contractor knows this, yet a heavy finger on the keyboard makes the certification read 200 hours and this mistake is not caught by the person signing the certification. The signer then, knowing the correct information, but with no intent to defraud, submitted a false certification that was required in order to receive money provided by the federal government.

## CONCLUSION

Economic stimulus packages passed by Congress mean there are now more public works dollars than at any time in our Nation's recent history. These federal dollars will find their way into every imaginable construction project both private and public. As the result of FERA, if even one federal dollar is used to fund a construction project, the far reaching and potentially devastating provision of the FCA apply. Therefore it is more important than ever that contractors institute strict and extensive protocols regarding all aspects of their project record keeping so that they will not be in the cross-hairs of the FCA that was created by the pen of Lincoln nearly 250 years ago.

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# Management Perspective

## Dispelling the Myths about Errors & Omissions Insurance

By Paula M. Selvaggio, RPLU  
& Robert Gavin, Esq.

Professional Liability Insurance ("PLI") for design professionals is unique compared to other types of professionals' coverage's. Since it is a highly specialized area of insurance, it is important to consult with experienced insurance advisors and legal counsel regarding the implications of coverage. When considering coverage for engineers, architects and construction managers or contractors who perform or subcontract design services ("Design Professionals"), you may want to consider the following:

### PLI Coverage Generally

An insurance policy is based upon an agreement (contract) between an insured, in this case a Design Professional, and an insurance company. A Project Owner ("Project Owner") is not a party to the insuring agreement. The coverage, subject to other policy terms and conditions, insures the Design Professional from claims that arise out of "wrongful acts" of the insured. A "wrongful act" is commonly defined as a negligent act, error or omission in the performance of professional services by the insured, or from any person or entity for whom the insured is legally liable. Professional negligence is generally defined as the failure of a professional to meet the standard of care expected of a similar professional practicing in the same or similar locality under the same or similar circumstances.

It is important to note that the law does not expect nor does it require perfection from any professional. The mere fact that a Design Professional e.g. commits an error, in and of itself, does not automatically lead to the conclusion that the Design Professional was negligent and therefore is liable to the Project Owner. A Project Owner must understand that PLI does not cover simply any error or omission of a Design Professional. Rather, it only covers claims if the error or omission, taken by itself or in combination with other errors and omissions, rise to the level of negligence. **This is why the coverage should not be referred to as "E&O Insurance"**



The coverage afforded to the Design Professional relates to typical services provided by the different disciplines of the profession. Typical services are usually defined as the practice of engineering, architecture, land surveying, landscape architecture, interior design, construction management advisory services, and environmental consulting. Some policies today reference services related to Building Information Modeling as well as other technology related services.

Occasionally, project owners request that a Design Professional obtain professional liability insurance limits much higher than normally provided considering the scope of the projects. Approximately 80% of the design firms in the United States carry limits of \$1 million per claim and in the aggregate or less.

### Responsibilities Under a PLI Policy

PLI policies are written under a form known as "claims-made and reported." This type of policy requires that a claim must be made against the insured and reported to the insurance company during the policy year. So it is the policy in effect when the claim is made and reported



that responds to a claim, not the policy that was in effect when the alleged negligence occurred, unless of course they are one and the same. It is the responsibility of the insured to report claims in a timely manner in order to comply with the provisions of the insuring agreement.

The insurance company is responsible on behalf of the insured to pay for damages in excess of the deductible that is stated in the insuring agreement, subject to the policy limits and other policy terms and conditions. In addition to the damages paid on behalf of the insured, the carrier shall also pay certain expenses as a result of claims. Claim expenses include legal fees and costs incurred by the carrier in the investigation, defense and appeal of claims arising from professional services by attorneys retained by the company. This may include other fees and expenses resulting from the investigation, defense and appeal of such claims. It is important to remember that the payment of these expenses by the carrier will reduce the limits of liability under a PLI policy. So, as an example, for every dollar the insurance company pays to a defense lawyer, the available limits of the policy to pay for additional expenses or losses is reduced by that dollar. It is important that a Project Owner understand that the PLI policy will only provide a defense to the Design Professional, it will not normally provide a defense to the Owner unless perhaps the owner is in joint defense against a third party.

## What is Not Covered by PLI

Exclusions under a typical professional policy are usually considered to be risks that are better covered by other types of insurance, or are acts that are basically uninsurable. Other types of insurance would include general commercial liability coverage, worker's compensation, employers' liability, automobile, and crime/employee dishonesty, to name a few.

Exclusions typically found in a PLI include intentional and dishonest acts, discrimination, providing or subcontracting actual construction, fabrication or installation by the insured, nuclear hazards, property liability etc. One very important exclusion is that which is related to liabilities assumed by contract. PLI typically excludes coverage for claims arising from liabilities assumed by a Design Professional by contract that the Design Professional would not have in the absence of the contract. Warranties, guarantees and certifications are examples of such a liability.

Owners sometimes request that they be added as an additional insured on the PLI policy. This is simply not possible even if the Design Professional were willing to do so. And even if it were, doing so would negate any coverage for claims made by the Owner since claims made by one insured against another insured are


specifically excluded. Therefore, even if an additional insured endorsement was provided, its ultimate effect would be to nullify any coverage for claims made by the primary source - the owner. This approach hardly seems to be in the best interest of the owner of a project. Owners are not "professionals" therefore this coverage is not appropriate.

## The Cost of PLI

The costs of PLI coverage are a significant expense for any Design Professional. Premiums charged vary depending on economic and marketplace conditions as well as underwriting factors. One of the most important factors is the professional discipline of the insured. Certain design disciplines carry with them more risks or exposure. For example, structural and geotechnical engineers typically pose greater risk and have higher insurance costs, whereas electrical engineers and interior designers pose lesser risk and have lower insurance costs. Other factors include the claims experience that a firm has because claims history is an indicator of future performance of services. Factors also considered by an insurance company's underwriters are the project types that the Design Professional undertakes (swimming pools with diving boards or condominiums would carry higher risks), the revenue generated by professional services, qualifications of the firm's members and quality control practices of the firm.

## Summary

The issues above should be remembered when considering the unique aspects of PLI. It is always advisable to consult with an insurance advisor and legal counsel well versed in this area since it is highly specialized. PLI is a safety net for both the Design Professional and their clients. It usually is the only source of funding in the event of a significant claim for damages. It is important to both understand these issues and craft an agreement between them that does not jeopardize the very insurance product that provides this safety net.

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# Trend to Watch



## Public Schools Are Finally Getting Green

The history of green building is interconnected with educational institutions in a number of ways. Aside from being forums for discussion and research, and originators of green building curriculum, colleges and universities were among the earliest building owners to develop green construction projects. In our fair city you can make a pretty strong argument that the first 'green' project was the Robert Preger Intelligent Workplace at Carnegie Mellon in 1994, a project that pre-dated LEED certification by seven years.

Getting public K-12 schools to build green was not nearly as easy. For a lot of structural, economic and political reasons the process of delivering a K-12 project in Pennsylvania has not been conducive to a sustainable design and construction project. Through the persistence of high performance school advocacy groups, some well-intentioned legislation and sheer osmosis the share of public schools aiming to do their project in a sustainable manner has grown dramatically. To get to the point where doing green schools is becoming accepted required overcoming some obstacles.

The problem starts with the inexperience of most school boards, who would only be aware of green building by coincidence. Without a driver from the board or community asking the right questions – the PTA or a grass roots student group – the project begins to flow through the PA Department of Education's (PDE) PlanCon process, a process that doesn't foster sustainability.

"The problem is that even the early forms for PlanCon A [the first approval prior to design] have no questions on them about energy efficiency or healthy buildings so the school district ends up with an RFP for architectural services that doesn't require that expertise," explains Jenna Cramer, projects and outreach coordinator at the Green Building Alliance.

Cramer believes that getting the state to integrate its desire for high performance green buildings into the PlanCon process is one of the keys to mainstreaming green practices. She is a member of the Green Schools Committee that meets monthly and says that PDE Deputy Secretary Michael Walsh understands the need to have PlanCon drive sustainable design and make the process more accessible and understandable to all districts.

Chris Cieslak is the owner of Chronicle Consulting and also a member of the Green Schools Committee. "Mike Walsh reached out to the green building groups and asked for input so that he can recommend changes to PlanCon and the reimbursement process." Cieslak isn't convinced that the solution is as simple as changing PlanCon. "There's

“...THE STUDENTS THEMSELVES  
LEARN ABOUT SUSTAINABLE  
DECISION MAKING FOR THE  
REST OF THEIR LIVES.”

absolutely still a perception out there among business managers that LEED is going to cost too much," she says. "School boards aren't well informed about green issues so they rely on their main consultant, the architect, to guide them and in the early stages most

A/E firms don't want to stick their neck out until their relationship with the board is more fully developed."

The process of developing a building with the intent of pursuing LEED certification is a fully integrated exchange of needs and solutions, when done right. It isn't easy but it generally isn't seen as a risky thing to do, but in the case of public schools an architect or other green advocate is asking the school board to take a risk because of how the PDE process is structured.

To begin with, there are some additional costs that can be associated with the LEED certification – energy modeling or commissioning for example – that a district may be reluctant to undertake without a payback. PDE has added an incentive to take on the cost by upping the reimbursement by 10% for the completion of a LEED Silver project, but the problem is that the bonus can only be reimbursed when the project is certified, which can be a year later. Moreover, there is no guarantee of certification when the project is registered so the 10% bonus is at risk until USBGC certifies the project.



PDE is taking steps to help. High performance planning grants can provide up to \$25,000 to pay for extra planning that can help ensure the overall project cost stays lower. And one of Walsh's proposed changes is likely to be the assumption of LEED certification at the time of completion, an advance of sorts that can be removed if LEED Silver isn't achieved.

Marc Mondor, whose firm evolveEA does architecture and LEED consulting, has seen the reimbursement in action. "I was the consultant on the K-6 A. L. Wilson School at Albert Gallatin School District in Fairchance," he says. "By pursuing LEED they ended up with a safe and healthy environment, a great learning environment, a very energy efficient building and a building that acts as a teaching example. The \$300,000 additional reimbursement more than covered all the costs of certification."

Integrating sustainability into the design process allowed Albert Gallatin to get a much better school and get extra reimbursement. Mondor stressed that doing the process right can save money even without the reimbursement. "We were involved with the renovation of Rowe Hall at Shady Side Academy. It was decided that the project would pursue LEED certification, without setting a standard, but by going through the process we were able to do the project on budget and got to LEED Gold."

Getting to LEED Silver isn't an accomplishment to trivialize but standards continue to evolve so that schools can get credit for issues that are important to the types of environments they create. USGBC has created specialized credits for the new LEED for Building Design and Construction Rating System that accommodate specific issues relevant to schools. The following are those credits that only exist for school construction and provide no credit for LEED-New Construction or LEED-Core & Shell.

### ***Sustainable Sites***

- Environmental Site Assessment
- Joint Use of Facilities

### ***Indoor Environmental Quality***

- Minimum Acoustical Performance
- Low-Emitting Materials: Furniture and Furnishings.
- Low-Emitting Materials: Ceiling and Wall Systems.
- Daylight and Views: Daylighting.
- Enhanced Acoustical Performance
- Mold Prevention

### ***Innovation in Design***

- The School as a Teaching Tool

Developing school-oriented LEED credits and getting them worked into the PlanCon process, along with making the process easier for school districts to use seem like helpful steps in assuring that all public school projects are green. After all, there isn't much of a counter argument to creating an environment that is healthy, energy efficient and conserves precious resources where our kids learn. The problem is still bridging the gap between wanting to do the right thing and understanding how.

"Honestly the hard thing to get past is that these are hard decisions for school boards to make," Cramer allows. "Because with schools the budget decisions are about up front costs, current costs, and it's so hard to look at expenses that reduce long-term costs."

Long-term costs can be difficult to get a school board to focus on, especially since most of the members won't be around to be accountable (or applauded) for their long-term decisions. And there's also the conundrum of capital budgets, from which the money will be spent today, versus operating budgets, which will experience the reduced costs later. But Jenna Cramer believes it isn't necessary to look at the decision both ways.

"If the district decides early and provides an integrated design process the project can end up being the same cost – it's done all over the U. S. for 30% less. Even at the same cost there are also the implications of a healthy building to consider – less asthma or chemical sensitivity among students – plus what the students themselves learn about sustainable decision making for the rest of their lives."

The use of the building as a sustainable working example of well considered decisions is gaining momentum as a benefit of green buildings. The process of planning a more sustainable school becomes part of a sustainability curriculum that focuses on the decision making more than the science. The proponents refer to the students exposed to this kind of curriculum over the length of their education as 'sustainability natives.'

Until schools more fully adopt sustainability curriculum there is still the practical matter of how districts approach a construction program, and sustainability doesn't have soft benefits there.

"Beatty Tech made the decision early on and stuck with it, and they saved millions from the original budget," says Cieslak. "We're trying to get Avonworth to be an early adopter right now but it shouldn't be a hard choice. I've seen going for LEED derailed during the process because of fear and inexperience, but I've never had anyone make a commitment early that resulted in failure because it cost too much." **BG**

# Best Practice



## Sharing Best Practices

*Jon O'Brien*

On the last Wednesday of each month, members of the AIA-MBA Joint Committee congregate in the MBA Board room. At the conclusion of its regular business the committee holds an open discussion called the "hot topics" session. This final portion of the meeting allows our region's general contractors and architects who serve on the committee to speak openly and honestly about current market situations.

"I don't think that all owners entirely understand the proper way to value engineer a project. True value engineering is a process that when conducted properly, can be very beneficial to a project," said Joe Tavella, Vice President – Estimating, Massaro Corporation. Too often the designer and the contractor function in vacuums during pre-construction, and then when it comes time to discuss value engineering a project, a contentious meeting takes place."

This comment by Mr. Tavella led the Joint Committee into a full-blown discussion of value engineering. The discussion reflected comments on the existing industry customs and procedures that have been advantageous to past projects that committee members have been associated with. After a lengthy discussion, which featured some unique stories on value engineering, the Joint Committee put a plan in place to create a recommendation in the AIA-MBA Joint Committee Best Practices Guide, formally known as the Yellow Book of Recommended Construction Practices.

"We hashed out the topic, decided on a value engineering best practice recommendation and then a few individuals from the designer side and the contractor side of Joint Committee volunteered to draft a recommendation," said Mr. Tavella. "The Hot Topics portion of the Joint Committee meeting played an instrumental role in the process; it provided the venue for an open and frank dialogue session. We might not be able to agree on every item, but we are able to discuss them and in doing so we get a better understanding of each other. Plus every so often we can agree on a recommendation, like the value engineering topic."

This story on value engineering illustrates a good structured way to share best practices. The Joint Committee places the "Hot Topics" on the agenda and committee members know at the conclusion of the

meeting they can express their experiences, and more often than not, both sides of the Joint Committee find themselves experiencing the same issues. By shedding light on a topic, it can be fruitful to the industry. The value engineering discussion is just one example of a collaborative approach to sharing a best practice with our region's construction industry. This past March, a year after Mr. Tavella initiated the conversation on value engineering, this topic became a section of the AIA-MBA Joint Committee Best Practices Guide.

Chartered in 1965, the Joint Committee is comprised of twenty executives from members of the AIA and the MBA. Their mission is to investigate, research and develop recommended best practices for Western Pennsylvania's construction industry. The recognition of the Joint Committee's Best Practices Guide has ebbed and flowed over its almost half-century of existence. The recognition barometer appears to be currently on an uptick as this guide has been referenced in a correspondence to the Pennsylvania Department of General Services over its prison construction proposals; numerous school districts have received letters for ill-conceived procedures for an upcoming project; and the Joint Committee has become a registered provider of the AIA Continuing Education Systems. Plus, this past July the Best Practices Guide was updated – all forty-eight (48) sections were either amended or reviewed.

"We've never lost focus on our mission. We may occasionally stray from it, but the Joint Committee's always been about the recommendations and they are extremely important," said Ray Volpatt, Jr. Co-Chairman of the Joint Committee and President of Volpatt Construction Corporation. "This resource is continually reviewed to assure it is up to date on industry practices and customs, evolving along the way with the construction industry. I feel this resource is a benefit to the next generation of construction professionals. The committee is a veteran group that has been through what the younger professionals are currently experiencing and we want them to know that 'hey we realize our industry is not perfect but if we each do our tiny part in promoting best practices, the working conditions will improve in the future.'"

During the prolonged existence of the Joint Committee, a few key factors have existed to assist in its success. "For one, the meetings are in a relaxed, positive setting, as opposed to a project specific meeting that can sometimes get edgy," said George Ehringer, Joint Committee member and Past President of the AIA.




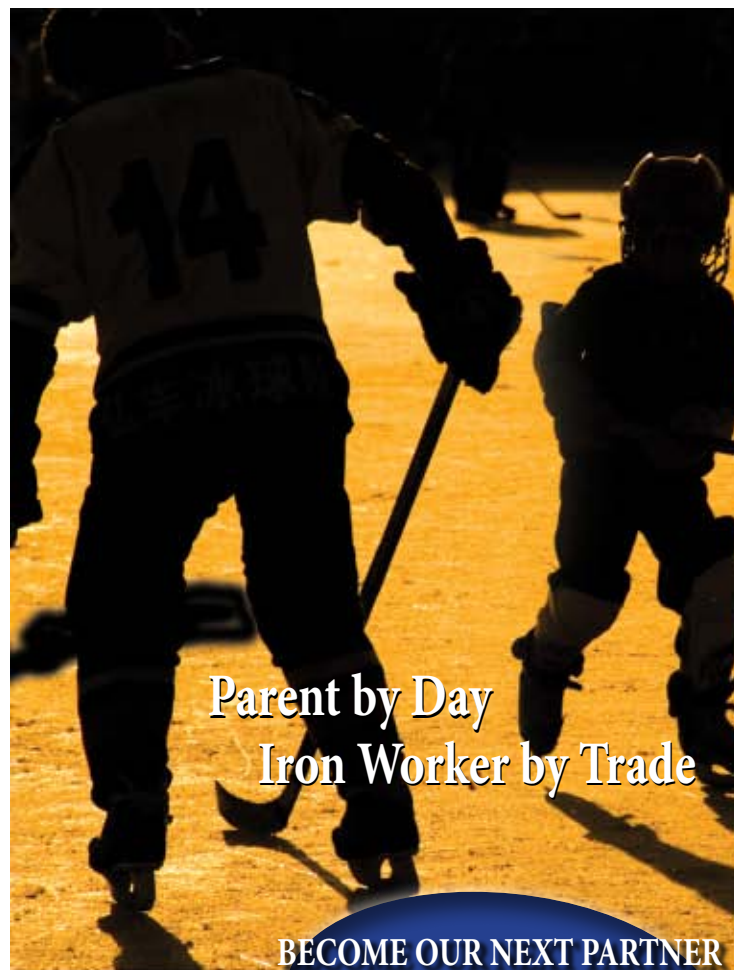
"The Joint Committee is comprised of extremely intelligent and experienced professionals who bring insight to the conversation. Plus we all face, or have faced, the same issues, like for instance a school board with some new, great idea for its upcoming construction project, when in fact this so-called great idea is actually counter-productive to the project and against the industry norm. The [Best Practices] Guide gives the industry a resource to use when contacting an owner that may have a disparaging idea. A letter can be sent informing the owner that they don't need to re-invent the wheel with this project. There are proven, best practices in place that they might not be familiar with."

Joint Committee members can discuss the 'ill-conceived' ideas in its 'Hot Topics' of their meetings. But sharing information doesn't have to be an agenda item to be beneficial to the industry at large. Beyond the Joint Committee, the sharing of information, specifically best practices, is a part of the industry.

"Internally at WTW, we stress communication at all phases of a project to include dialogue with owners, consultants, interior designers, contractors and major subcontractors. We constantly share stories at the firm to understand what others are going through," said Kristin Merck, Project Designer at WTW Architects. "I strongly feel that the increased communication greatly assists each entity's role in the process. My smoothest project to date was one in which prior to bidding a project, one of the bidding contractors called me half-dozen times to discuss the project. During those six conversations, we discussed items that I probably wouldn't have thought about but it ended up benefitting the project as more details were added to the drawings. Personally, I see the trend of increased communication continuing in my career as I stay involved with the local community through the AIA Young Architects Forum and the MBA Young Constructors. These organizations are set up to be great conduits of information sharing, plus both are focused at bridging the gap early in one's career."


Sharing best practices plays an important role, especially in an industry that is focused on identifying and solving problems. Any initiative to promote best practices and highlight what people are doing right in the industry has the potential to raise morale and make the notion of achieving excellence seem possible.

*Jon O'Brien is Director of Communications for the Master Builders' Association of Western PA and administrator of the AIA-MBA Joint Committee ([www.mbawpa.org/aia-mba](http://www.mbawpa.org/aia-mba)). He can be reached at 412-922-3912 or [jobrien@mbawpa.org](mailto:jobrien@mbawpa.org).* 



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# AWARDS & CONTRACTS

**Landau Building Company** was awarded a contract by **MedExpress** to construct an interior fit-out of a new facility in State College, PA. The architect is **Paul Slowik & Associates**.

Con Yeager Spice Company, a spice distributing and seasoning manufacturing company, located in Zelienople, has contracted **Landau Building Company** to be the construction manager for their new 53,000 square foot warehouse located in Cranberry Township. **Fritz Baehr** is the architect on this project.

**Landau Building Company** has begun construction on the \$2 million addition to Hope Evangelical Lutheran Church in Cranberry Township, PA. The architect is **Paul Slowik & Associates**.

**Landau Building Company** was selected to be the construction manager for a new 29,500 square foot automobile dealership and sales lot in Cranberry Township for CarSense Inc. This will be the first CarSense in Western Pennsylvania. **Fritz Baehr** is the architect.

**Landau Building Company** was recently awarded a contract for the UPMC Cyclotron Replacement at Presbyterian University Hospital.

The Catholic Diocese of Greensburg selected **Volpatt Construction** as contractor for the renovations to the Blessed Sacrament Cathedral in Greensburg. **Celli-Flynn Brennan** is the architect on the \$4 million project. Construction is to be completed by January 31, 2011.

Grace Reformed Presbyterian Church in Richland Township awarded **Burchick Construction** a design/build contract for renovations to its facilities. Burchick is partnering with **Desmone & Associates Architects** on the project.

JC Penney awarded contracts to **Poerio Incorporated** for the renovations to four of its stores. The projects include the Westmoreland Mall store in Greensburg, PA, which involved 92,000 square feet of the existing space; the Eastgate Mall in Cincinnati OH, a 2,000 sq foot renovations to the restrooms completed within

LEED guidelines; a 4,000 square foot renovation of the Shoe Department at the Penney's Fair Oaks Mall in Fairfax VA; and the renovations to the Optical Department in Meriden Square, Meriden CT. The architect for all the projects is **Nudell Architects**.

**Poerio Incorporated** was awarded the contract to build the Security Building at Fed EX Ground, on Neville Island Pittsburgh, PA. The project was designed by **Radelet McCarthy Polletta**. Fed Ex Ground also selected **Poerio** for the complete renovations of the district offices in Champaign Illinois. The renovations included all mechanical and electrical work.

**Poerio Incorporated** was awarded the contract to renovate the 3,000 square foot PNC Bank in Shelbyville DE. **Gensler Architects** designed the renovations to the Bank.

The United Cerebral Palsy has selected **Massaro Corporation** to serve as the general contractor for the relocation of their Pittsburgh office. The Center for Creative Play in Swissvale will be the new home for the non-profit agency. Construction is slated to begin in November of this year. The architect on the project is **Springboard**.

Braddock Redux has selected **Massaro Corporation** to return as the general contractor for Phase II of the renovation to their community center. This design/build project will include upgrades to the HVAC system, waterproofing, floor leveling, and painting. The project is slated for completion in early 2011.

**Massaro Corporation** was selected by Point Park University to perform interior renovations to four separate teaching and performing studios. This \$500,000 project will be completed in September of this year. **TKA Architects** served as the architect.

**Massaro Corporation** was the successful contractor for the State of West Virginia Department of Administration state office building in Logan West Virginia. This \$10 million new construction project is slated to start in fall of 2010. **McKinley & Associates** is the architect.



**Massaro Corporation** was the low bidder for the center for pharmacy services at Duquesne University. This 5,300 square foot renovation project is slated for completion in late September of this year. **Design 4 Studio** is the architect on the project.

Riverview Towers has selected **Massaro Corporation** and **Sterling Contracting Joint Venture** as the general contractor of their addition and renovation project to their Garretta Street property. **Rothschild Doyno Collaborative** is the architect on the project.

**Nello Construction** was recently hired to reconstruct the Avalon Court apartment complex located on East Greene Street in Waynesburg, PA. The apartment building was destroyed on April 22 when a devastating fire tore through the 40-unit senior housing complex. Nello Construction is working with **Altman & Altman Architects** to make the space livable once again. The 27,000 sq. ft. building is scheduled to be enclosed by mid-October.

The U.S. Navy has awarded **BRDC**, a joint venture of **Burns and Roe Services Corporation** and **dck worldwide**, a \$64.5 million contract for the New Navy Family Housing & Fitness Center Renovation at the U.S. Naval Base at Guantanamo Bay, Cuba. The design portion of this design-build project will begin immediately. Construction is anticipated to begin in November 2010 and scheduled for completion in 25 months.

**dck international**, a **dck worldwide company**, was awarded a contract for and recently broke ground on The Beach Club at Sandy Bank Bay in St. Kitts, West Indies. The \$7 million Beach Club is designed as a 9,400 SF open-air venue with a swimming pool, changing area, and covered beach bar and grille, with direct access to the beach. **dck** will serve as general contractor for this St. Kitts-Nevis-inspired design. The project is scheduled for completion in early 2011.

**Mosites Construction** was awarded the \$9.5 million general construction contract by the PA Turnpike Commission for the new \$13 million Uniontown-Brownsville Maintenance Facility in Menallen Township, Fayette County. **Vitetta Architects** designed the facility, which totals 45,600 square feet.

**Jendoco Construction Corporation** was awarded a contract for rehabilitation of Warner Hall Plaza at Carnegie Mellon University. The work includes waterproofing the plaza roof above The HUB and Admissions offices, new hardscaping and environmentally friendly rain gardens and expanded landscaping. **Klavon Design Associates** was the landscape architect.

**PJ Dick Inc.** was awarded Construction Management and General Construction Services for the new School of Business at Robert Morris University. The two-story, 17,700 square foot building will include classroom and administrative space. The \$5.7 million dollar project is expected to be completed in July of 2011.

**PJ Dick** was awarded General Contracting Services by the City of Pittsburgh to perform security upgrades to Police Station Zone 6 in Pittsburgh's West End. The project started in June and was completed August 6th, 2010.

**PJ Dick** was awarded Agency Construction Management Services for the University of Pittsburgh Addition, Renovation and Infrastructure Upgrades to Parran and Crabtree Halls. The 70,000 Square Foot, 5-story academic laboratory building is home to Pitt's Graduate School of Public Health. The project, designed by **Wilson/Renaissance 3 Architects**, is scheduled to begin construction in spring 2011.

**Rycon Construction** was the successful contractor for the University of Pittsburgh's Chevron Hall fifth floor renovations project. **Renaissance 3 Architects** is the designer of the \$4.7 million project. This 9,000 square foot lab renovation project is expected to be completed in early spring 2011.

**Rycon Construction** was awarded a construction management services contract for the University of Pittsburgh, Greensburg Campus, \$7 million Sustainable Office + Classroom Building. This 15,000 square foot building is programmed for new computer labs and computer classrooms and is scheduled to start construction in the spring of 2011.

University of Pittsburgh awarded **TEDCO Construction** a \$1.1 contract for renovations to the Barco Law Library at its Oakland campus. **Strada Architecture LLC** is the architect.

**TEDCO Construction** was the successful contractor on the Salvation Army's \$4 million Temple relocation, a 28,000 new facility on McNeilly Road in Mt. Lebanon. The architect for the building is **RSSC Architecture**.

The **A. Martini & Co., Inc.** was selected to provide preconstruction and construction services for the relocation of KDKA Radio to Foster Plaza in Greentree, PA. This \$1,200,000 project is scheduled to be complete by October 2010. **Next Architecture** was the selected architect.

A. Martini & Co., Inc. was awarded the General Construction of the Verizon FIOS retail space at Bakery Square located in East End. This store is scheduled to open in October 2010. Claitman Engineering Associates, Inc. provided the design for this space.

Heritage Valley Health System awarded the Sewickley Valley Medical Center's Primary Care Physicians' Suite to A. Martini & Co., Inc. This million dollar project includes the renovation of 10,000 square feet of the existing administrative offices and the renovation of the physician primary care area. Paul Slowik & Associates Architects is the design firm for this space.

Mascaro submitted the low bid for the concrete flatwork bid package on the UPMC East hospital project in Monroeville. The scope of the work includes concrete slab-on-grade, concrete slab-on-metal deck, and site sidewalks and paving.

University of Pittsburgh awarded two projects to Mascaro for work at the Chevron Science Center. The first one is for renovations to the second floor chemical storage room, and the other is for demolition and abatement for the fifth floor renovation. Mascaro is currently the construction manager on the Chevron Science Center Annex addition.

Mascaro received notice from the University of Pittsburgh that it was selected to provide

preconstruction and construction services for the Mid-Campus Complex renovations. Partially funded with ARRA funds, the renovations will involve the following buildings: NPL, Allen Hall, Old Engineering Hall, Thaw Hall, and SRCC.

F. J. Busse Co. was the successful contractor on Forest City's renovations to the lobby of Commerce Court at Station Square. D. L. Astorino & Associates is the architect. Busse was also awarded the ITXM renovation for the Central Blood Bank at Parkway Center Building #5.

The Western Pennsylvania School for the Blind awarded F. J. Busse Co. a \$1.3 million contract for renovations, including HVAC and window replacement at its facilities on South Craig Street. The architect on the project is Hayes Large Architects.

Steamfitters Local #449 selected F. J. Busse for the second phase of their Technical Center expansion on Woodruff Street. WTW Architects was the architect for the \$700,000 project.

F. J. Busse Co. was the successful contractor on Baker Hall A-60 Renovations at Carnegie Mellon University. Quad 3 Group is the architect.



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# FACES & NEW PLACES

**Chris Furman** joins **Blumling & Gusky** as an associate in the Litigation Practice Group and will focus on commercial litigation. He has practiced law in this area for eight years. His position will focus on resolving business disputes, including valuation disputes, corporate and partnership litigation, bankruptcy litigation, estate litigation and real estate disputes. He received his B.S. from La Roche College and his J.D. from the Northwestern University School of Law.

**William Stein** joined **Nello Construction** as project manager. William brings over twenty years of industry experience to Nello's project management team. He is currently overseeing Nello's Cameron High School project in WV.

**Mascaro** is pleased to announce the following additions to our build with the best staff:

**Chris Kondas** joined the Building's estimating team in June. Chris, a 1996 engineering graduate from the University of Pittsburgh and LEED Accredited Professional. **Luke Pisarcik** joined Mascaro in early July after his graduation from Seton Hill University.

Prior to graduation, Luke worked as a laborer and intern, and is currently working in the Building's estimating department. **Bill Franczyk** joined our Building's estimating team in July. A 1996 Penn State engineering graduate, Bill acquired his LEED Green Associate accreditation.

**Tim Jones** P.E., LEED AP has joined **Massaro CM Services, LLC** as a project engineer. Tim joins Massaro from Atlantic Engineering Services where he served as a structural engineer/designer for 5 years. Tim earned a master and bachelor in architectural engineering.

**dck worldwide & Oakview Construction, Inc.** announced July 28 that **dck** acquired Oakview Construction, Inc. through an asset purchase and formed Oakview dck, LLC. This acquisition is a part of **dck worldwide's** effort to focus the organization in markets that have significant growth.

**PJ Dick Inc.** added **Theresa McCue** to their staff as Proposal Manager.



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# THE INDUSTRY in the COMMUNITY

## Club Noir Raises Funds for Rebuilding Together

The Young Constructors Committee of the Master Builders' Association held its first annual golf outing May 10 at the Southpointe Golf Club. The outing drew a full

slate of foursomes, attracting 138 golfers plus sponsors to benefit the Pittsburgh chapter of the ACE Mentoring program.



*Gary Officer, President and CEO of Rebuilding Together (left) and BNY/Mellon's Frank Hammond (right) present the Brass Hammer award to Hank Rettger, Vice President of Customer Operations at EQT Corporation in recognition of EQT's ongoing support of RTP.*



*Rebuilding Together Pittsburgh presents the Brass Hammer award to the Greater PA Regional Council of Carpenters for their long time support. From left are Rebuilding Together national CEO Gary Officer, Bill Waterkotte, RTP board president Frank Hammond and Carpenters executive secretary Jack Brooks.*

## OSHA Recognizes First Project Safety Partnerships

In August the Occupational Safety & Health Administration (OSHA) recognized two Pittsburgh area projects for being the first to sign Strategic Partnerships for Worker Safety and Health. OSHA met with UPMC and PJ Dick/Barton Malow to sign an agreement to be followed during the construction of the UPMC East Hospital in Monroeville. The partnership encompasses OSHA, PJ Dick, Barton Malow and the Pittsburgh Building Trades. The agreement sets a DART rate (Days Away from Work Restricted and Transferred Activity cases) goal of 4.8 or lower during the duration of the project. The DART rate includes those losses that result in days away from work and/or restricted work activities.

OSHA also recognized the Consol Energy Center construction and labor team for a successful completion of the first Strategic Partnership in the region. The project team, led by PJ Dick/Hunt Construction had a DART rate goal of 5.1 and completed the project with a DART rate of 4.5.



*(Front row l-to-r) John Dobbins of Barton-Malow, PJ Dick's Bob Salvatora, Kathleen Kiehl, PJD, Bob Carroll of OSHA, Rich Stanizzo director Pittsburgh Building Trades, Barton-Malow's Harvey Oliva. (Back) Rick Scott and Joe Franceschini of PJ Dick, UPMC's Tom Kennedy, Cliff Rowe, Robert Szymanski of OSHA, Martin Noone of Steamfitters #449, Bill Brooks of Laborers District Council*



*OSHA's Bob Carroll (center) presents a certificate of achievement to members of the PJ Dick Consol Energy Center team. From left, project manager Walt Czekaj, Kathleen Kiehl, Joe Franceschini and C. L. Cross.*

## Thomas Murphy Receives the 2010 James Kling Fellowship Award

The AIA-MBA Joint Committee announced that Thomas Murphy is the recipient of the 2010 James Kling Fellowship Award. Mr. Murphy recently retired as president of Jendoco Construction Corporation, a Pittsburgh-based commercial general contractor.

The James Kling Fellowship Award was established by the AIA-MBA Joint Committee to recognize those individuals who best exemplify collaboration between the design and constructor professions. These individuals, through their action and example, provide both members of the AIA and the MBA standards of excellence to strive for in an effort to bridge the gap between both professions. To qualify for this award, individuals must be nominated by the opposite profession. Mr. Murphy was nominated by Chip Desmone, AIA, principal at Desmone & Associates Architects.

"To me, Tom Murphy is the epitome of collaboration in construction," said Mr. Desmone at a ceremony to present Mr. Murphy with this prestigious award. "Throughout his career Tom instilled a trusting atmosphere that allowed teamwork to flourish from all entities on a project. For his actions, Tom is highly respected by our region's architectural community."

The namesake of this award, James Kling, is after a longstanding figure on the AIA-MBA Joint Committee. Mr. Kling passed away in November of 2008. The plaque to commemorate this award features a picture of Three Rivers Stadium, one of many projects designed over the highly regarded career of Mr. Kling. The award plaque will be displayed in the MBA Conference Center, where the Joint Committee meets monthly.



*Chip Desmone presents the 2010 James Kling Award to Tom Murphy.*





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## Massaro Volunteers at the YWCA

On June 15, 2010 a group of Massaro employees volunteered for a Day of Service at the local YWCA. The team spent the day learning about the mission of the YWCA as well as painting, gardening, and cleaning.



Front row (L to R): Zach Schweitzer, Ron Masztak, Jason McCandless, Stan Kirsnes, George Knoll, John Buechli  
Back row (L to R): Jean Mignogna, Laura Petrak, Steve Peterman, Vince Fasline, Ashton Segree, Kristin McIntosh, and David Massaro.  
Not Pictured: Robert Chambers III



Michael Warren of Warren architectural atelier (left) and WTW's Sean Sheffler at the AIA-MBA Yellow Book launch.



Tim Fryer and Rob Sklarsky celebrate the completed revisions of the AIA-MBA Joint Committee Best Practices Guide with Burt Hill's Chuck Parker at the Hofbrauhaus.

## Green Building Alliance Event



Ray Oravetz from NAI Pittsburgh & Domenic Dozzi of Jendoco at the Party on the Rooftop



Eat 'n Park's Bill Bates (left) chats with Pete Spinelli of Concurrent Technologies & Astorino's Cat Sheane at the GBA's Party on the Rooftop at the Reed Smith (3 PNC Plaza) Building on August 19

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## Mascaro Takes "Great Strides" for Cystic Fibrosis

Mascaro employees "stepped" up to the challenge of walking to raise money for the cure of cystic fibrosis. Mascaro had the best corporate representation of the event with 86

walkers in the May 6 Great Strides event for Cystic Fibrosis. Their corporate total for the event was over \$12,000.



*Mascaro Construction employees who participated in the Great Strides walk for Cystic Fibrosis.*

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# MBA Membership

## MBA MEMBERSHIP

The Master Builders' Association (MBA) is a trade organization representing Western Pennsylvania's leading commercial, institutional and industrial contractors. MBA contractors invest in a skilled workforce, implementing award-winning safety programs and offer the best in management and stability.

The MBA is a chapter of the Associated General Contractors of America, the nation's largest and oldest construction trade association. The MBA is committed to improving the construction trade association through education, promoting technological advancements and advocating building the highest quality projects for owners. To learn more go to [www.mbawpa.org](http://www.mbawpa.org).

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Joseph B. Fay Company  
FMS Construction Company  
Gurtner Construction Co. Inc.

Jendoco Construction Corp.  
Landau Building Company  
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Mascaro Construction Co., L.P.  
Massaro Corporation  
Mosites Construction Company  
Nello Construction Company  
Poerio, Incorporated  
Rycon Construction, Inc.  
Stevens Engineers & Constructors Inc.  
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Cost Company  
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Paramount Flooring Associates, Inc.  
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# Closing Out

## A Green Mandate Means Schools Too

By Rep. Matt Smith

I am often approached by various constituencies about "green" building because of my sponsorship of several pieces of green building legislation and my recent efforts to form a Green Building Caucus in the Pennsylvania State House. People ask me why I believe in it from a legislative standpoint and why I promote it heavily. Although I am happy to give someone the environmental benefits of sustainable or green building practices, that often misses the point for why these approaches deserve legislative support. I am not advocating for legislation simply because it is a smart idea; rather, I am advocating because it is the most effective use of taxpayer money. I take the issue a step further in stating the case that energy efficient buildings, although not always the same as green buildings, are smart for Pennsylvania because they reduce our dependency of non-renewable and foreign energy sources. And both approaches to building yield healthier, longer-lasting buildings that complement our infrastructure in ways, particularly in terms of water management, that will pay dividends in the future.

Now more than ever, state funds are stretched thin and blending time-tested and innovative approaches to infrastructure investment is needed to use the limited available funds and resources in the most effective manner. House Bill 444, which I wrote, is a big step in that direction. The legislation would mandate that any state funded building or large-scale remodel utilizing state dollars be built to certain environmental specifications. When these mandates are part of the initial project plans, the project can be cost neutral or possibly a one percent increase over a conventional build/retrofit. We see the real savings over the life of the building, so we are not just creating more productive, healthier work spaces; we are saving money every year. I am excited that the industry leaders are on board despite no mandate; but state incentives and requirements will only fuel the practice, development and use of these building techniques in the future.

The green picture may seem too good to be true. With all of these so-called economic benefits, you may be wondering why this legislation has not passed by now. I do not need to tell you that, like working with a team of people to complete a job, the larger the team and the larger the project, the harder it is to build consensus and get everyone on the same page. Despite the state's mix of rural, urban, Republican, Democrat, resource rich and resource dependant, H.B. 444 passed the House last summer by a vote of 180-17 with overwhelming bipartisan support.

Recently the legislation was amended and released from the Senate Environmental Resources and Energy Committee with some significant alterations. It was amended to exempt school buildings. My fight to pass this bill cannot come at the expense of positive learning environments for children and significant taxpayer savings. If the economic arguments for mandates hold water for other forms of construction, we need to ensure that schools are included in the legislation at final passage. I'm confident at this point that the legislation will be amended from the Senate floor to add schools back into the equation. This action and the governor's support could mean that my three year fight will become reality this year.



Sometimes change can be slow, but the payoff is smart legislation that brings together interests of all of the players in green building to ensure smart spending

of taxpayer money.

State Rep. Matt Smith represents the 42nd legislative district in the Pennsylvania House of Representatives which consists of Green Tree, Mt. Lebanon, Rosslyn Farms, Thornburg, and parts of Scott Twp and Bethel Park. He recently started the Green Building Caucus in the House to generate support for Green Building initiatives. He also serves on the Appropriations, Insurance, Liquor Control and Urban Affairs committees. He can be reached at 412-571-2169, [MHSmith@pahouse.net](mailto:MHSmith@pahouse.net), or [www.pahouse.com/MSmith](http://www.pahouse.com/MSmith). BG

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