

PERINI CORP
Form 8-K
September 12, 2008

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

PURSUANT TO SECTION 13 OR 15(d)

OF THE SECURITIES EXCHANGE ACT OF 1934

Date of Report (Date of earliest event reported): September 8, 2008

Perini Corporation

(Exact name of registrant as specified in its charter)

Massachusetts
*(State or other jurisdiction of
incorporation or organization)*

1-6314
(Commission file number)

04-1717070
*(I.R.S. Employer
Identification No.)*

73 Mt. Wayte Avenue, Framingham, MA 01701

(Address of principal executive offices) (Zip code)

*Registrant's telephone number, including area code***(508) 628-2000**

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None

(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Item 1.01. Entry into a Material Definitive Agreement.

On September 8, 2008, Perini Corporation (the Company) entered into a Third Amended and Restated Credit Agreement (the Amended Agreement), as Borrower, with Bank of America, N. A., as Administrative Agent, Swing Line Lender and L/C Issuer (the Lender). The Amended Agreement amends and restates in its entirety an existing Second Amended and Restated Credit Agreement dated May 7, 2008 among the Company, as Borrower, and the Lender, as Administrative Agent (the Existing Agreement), which provided for a \$125 million revolving credit facility and an additional \$117.3 million under a supplementary facility.

The Amended Agreement replaces the Existing Agreement and allows the Company to borrow up to \$155 million on a revolving credit basis, with a \$50 million sublimit for letters of credit, and an additional \$111.65 million under a supplementary facility to the extent that the \$155 million base facility has been fully drawn. Subject to certain conditions, the Company has the option to increase the base facility by up to an additional \$45 million. Similar to the Existing Agreement, certain subsidiaries of the Company will unconditionally guarantee the obligations of the Company under the Amended Agreement. Certain companies not party to the Existing Agreement, having become subsidiaries of the Company as a result of a merger completed on September 8, 2008 between the Company's acquisition subsidiary and Tutor-Saliba Corporation, also became guarantors under the Amended Agreement. The obligations under the Amended Agreement are secured by a lien on all personal property and certain real property of the Company and its subsidiaries party thereto. Amounts outstanding under the Amended Agreement bear interest at a rate equal to, at the Company's option, (a) the adjusted British Bankers Association LIBOR rate, as defined, plus 100 to 200 basis points (with a floor of 125 basis points for the \$155 million base facility) based on the ratio of consolidated funded indebtedness of the Company and its subsidiaries to consolidated EBITDA or (b) the higher of the Federal Funds Rate plus 50 basis points, or the prime rate announced by Bank of America, N.A., plus up to 75 basis points based on the ratio of consolidated funded indebtedness of the Company and its subsidiaries to consolidated EBITDA. In addition, the Company has agreed to pay quarterly facility fees of 0.50% per annum of the unused portion of the base credit facility and ranging from 0.20% to 0.35% per annum of the unused portion of the supplementary facility. Any outstanding loans under the Amended Agreement mature on February 22, 2012, unless extended pursuant to the terms of the Amended Agreement, provided, however, the supplementary facility will terminate on (and all loans thereunder must be repaid on or before) May 6, 2009.

The Amended Agreement requires the Company to comply with certain financial and other covenants at the end of each fiscal quarter including:

- Consolidated net worth of at least \$160.5 million, increased on a cumulative basis commencing with the fiscal quarter ending December 31, 2006, by an amount equal to 50% of consolidated net income (with no deductions for net losses) for the fiscal quarter then ended plus 100% of the amount of all Equity Issuances (as defined in the Amended Agreement) after the closing date of the Amended Agreement that increase consolidated shareholders' equity;
- Consolidated leverage ratio of no more than 2.5 to 1.0;
- Fixed charge coverage ratio of consolidated EBITDA over covered charges (which includes interest expense, cash taxes, scheduled payments of principal and interest, and current period dividends on the Company's preferred stock) of at least 1.5 to 1.0; and
- Consolidated asset coverage ratio of at least 1.5 to 1.0.

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The Amended Agreement also includes certain customary provisions for this type of facility, including operational covenants restricting liens, investments, indebtedness, fundamental changes in corporate organization, and dispositions of property, and events of default, certain of which include corresponding grace periods and notice requirements. In addition, the Amended Agreement provides that the supplementary facility shall be reduced by the amount of any reduction in the principal amount of certain auction rate securities presently held by the Company.

The Amended Agreement provides for customary events of default with corresponding grace periods, including (i) failure to pay any principal or interest when due, (ii) failure to comply with covenants, (iii) any material representation or warranty made by the Company proving to be incorrect in any material respect, (iv) defaults relating to or acceleration of other material indebtedness, (v) certain insolvency or receivership events affecting the Company, (vi) a change in control of the Company, or (vii) the Company becoming subject to certain material judgments.

In the event of a default, the Administrative Agent, at the request of the requisite number of lenders, must terminate the lenders' commitments to make loans under the Amended Agreement and declare all obligations under the Amended Agreement immediately due and payable. For certain events of default related to insolvency and receivership, the commitments of the lenders will be automatically terminated and all outstanding obligations of the Company will become immediately due and payable.

The forgoing description of the Amended Agreement does not purport to be complete and is qualified in its entirety by reference to the full text of the Amended Agreement, which is filed with this Current Report on Form 8-K as Exhibit 10.1 and is incorporated herein by reference.

Item 2.03. Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.

The information in Item 1.01. Entry Into a Material Definitive Agreement of this Current Report on Form 8-K, related to the Company's entry into the Amended Agreement, is incorporated herein by reference.

Item 9.01. Financial Statements and Exhibits.

- (d) Exhibits.
 - 10.1 Amended and Restated Credit Agreement, dated as of September 8, 2008 among Perini Corporation, the subsidiaries of Perini identified therein and Bank of America, N.A. and the other lenders that are parties thereto.

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SIGNATURES

According to the requirements of the Securities Exchange Act of 1934, as amended, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized on September 12, 2008.

PERINI CORPORATION

/s/ Kenneth R. Burk

By: Kenenth R. Burk

Its: Senior Vice President and Chief Financial Officer