

SPHERIX INC
Form 8-K
October 08, 2010

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) **October 7, 2010**

Spherix Incorporated

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction
of incorporation)

0-5576
(Commission
File Number)

52-0849320
(I.R.S. Employer
Identification No.)

6430 Rockledge Drive, Suite 503, Bethesda, Maryland
(Address of principal executive offices)

20817
(Zip Code)

Registrant's telephone number, including area code **301-897-2540**

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

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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 (see General Instruction A.2. below):

- 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))
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Item 1. Entry Into Material Definitive Agreement.

On October 7, 2010, Spherix Incorporated (the Company) and certain investors entered into a securities purchase agreement, pursuant to which the Company agreed to sell an aggregate of 5,250 shares of its Series B Convertible Preferred Stock and warrants to purchase up to an additional 2.1 million shares of its common stock to such investors for gross proceeds of approximately \$5.25 million. Each share of Series B Convertible Preferred Stock is convertible at the option of the holder, at any time, into 800 shares of common stock based on a conversion price of \$1.25 per share of Series B Convertible Preferred Stock. The preferred stock and warrants were sold in units, with each unit consisting of one share of preferred stock and a warrant to purchase 0.5 of a share of common stock. The purchase price per unit is \$1,000.00. Subject to certain ownership limitations, the warrants are exercisable at any time on or after the initial issue date and expire 5 years from closing, but not thereafter, at an exercise price of \$1.50 per share. The exercise price of the warrants is subject to adjustment in the case of stock splits, stock dividends, combinations of shares and similar recapitalization transactions.

The Company entered into a placement agent agreement with Rodman & Renshaw, LLC (the Placement Agent), pursuant to which the Placement Agent agreed to use its reasonable best efforts to arrange for the sale of shares of the Company's preferred stock and warrants to purchase additional shares of the Company's common stock in a registered direct offering. The Company has agreed to pay the Placement Agent an aggregate fee equal to 6% of the gross proceeds received in the offering. The Company has agreed to grant the Placement Agent warrants to purchase shares of our common stock equal to 3% of the number of shares sold in this offering (at an exercise price equal to 125% of the public offering price) and to reimburse the Placement Agent for expenses incurred by it in connection with the offering in an amount up to \$45,000.

The net proceeds to the Company from the registered direct offering, after deducting placement agent fees and the Company's estimated offering expenses, and excluding the proceeds, if any, from the exercise of the warrants issued in the offering, are expected to be approximately \$4,935,000. The offering is expected to close on or about October 13, 2010.

The preferred stock, warrants to purchase common stock (including the placement agent warrants) and shares of common stock issuable upon conversion of the preferred stock and exercise of the warrants will be issued pursuant to a prospectus to be filed with the Securities and Exchange Commission pursuant to a registration statement on Form S-1 (File No. 333-167963), which became effective on October 6, 2010. A copy of the opinion of Baxter, Baker, Sidle, Conn & Jones, P.A. relating to the legality of the issuance and sale of the shares of preferred stock, warrants and shares of common stock issuable upon conversion of the preferred stock and exercise of the warrants in the offering is attached as Exhibit 5.1 hereto.

The foregoing summaries of the terms of the placement agent agreement, the securities purchase agreement and the warrants are subject to, and qualified in their entirety by, such documents attached hereto as Exhibits 1.1, 1.2 and 4.1 and incorporated herein by reference. Each of the placement agent agreement and the securities purchase agreement contain representations and warranties that the parties made to, and solely for the benefit of, the other in the context of all of the terms and conditions of the agreements. Such representations and warranties are not for the benefit of any other person or entity.

Section 9 Financial Statements and Exhibits

Item 9.01 Financial Statements and Exhibits

(d) Exhibits

Number	Description
1.1	Form of Securities Purchase Agreement, dated as of October 7, 2010, by and among the Company and the purchasers thereto.
1.2	Placement Agent Agreement, dated as of August 12, 2010, by and between the Company and Rodman & Renshaw, LLC.
4.1	Certificate of Designation of Preferences, Rights and Limitations of Series B Convertible Preferred Stock
4.2	Form of Warrant Agreement.
5.1	Opinion of Baxter, Baker, Sidle, Conn & Jones, P.A., as counsel to the Company, regarding the legality of the Shares.
23.3	Consent of Baxter, Baker, Sidle, Conn & Jones, P.A., as counsel to the Company (included in Exhibit 5.1).
99.1	Press Release dated October 7, 2010.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Spherix Incorporated
(Registrant)

By:

/s/ Robert L. Clayton
Robert L. Clayton, CFO

Date: October 8, 2010