

INVIVO THERAPEUTICS HOLDINGS CORP.

Form 8-K

February 17, 2012

**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**

**FEBRUARY 16, 2012**

**Date of Report (Date of earliest event reported)**

**INVIVO THERAPEUTICS HOLDINGS CORP.**

**(Exact Name of Registrant as Specified in Charter)**

NEVADA

000-52089

36-4528166

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(State or Other Jurisdiction  
of Incorporation)

(Commission  
File Number)  
**One Broadway, 14<sup>th</sup> Floor**

(IRS Employer  
Identification No.)

**Cambridge, Massachusetts 02142**

(Address of Principal Executive Offices) (Zip Code)

**(617) 475-1520**

(Registrant's telephone number, including area code)

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))

**Item 1.01. Entry into a Material Definitive Agreement.**

On January 19, 2012, the Securities and Exchange Commission (the Commission) declared effective the Registration Statement on Form S-3, as amended (File No. 333-178584) (the Registration Statement), of InVivo Therapeutics Holdings Corp. (the Company). The Registration Statement permits the Company to issue, in one or more offerings, securities at an aggregate offering price not to exceed \$50,000,000.

On February 16, 2012, the Company entered into an underwriting agreement (the Underwriting Agreement) with Aegis Capital Corp. and Summer Street Research Partners, as representatives of the underwriters named therein (the Underwriters). Pursuant to the terms and conditions of the Underwriting Agreement, the Company agreed to sell 8,281,574 shares of its common stock (the Firm Shares) at a price to the public of \$2.10 per share. Pursuant to the Underwriting Agreement, the Company granted the Underwriters an option to purchase up to an additional 1,242,236 shares of its common stock (together with the Firm Shares, the Shares) within 30 days after the date of the Underwriting Agreement to cover overallocments, if any. The Company expects to receive approximately \$15.7 million in net proceeds from the offering after underwriting fees and offering expenses, or approximately \$18.1 million if the underwriter's overallocation option is exercised in full. The offering is scheduled to close on or about February 23, 2012, subject to customary closing conditions.

The offering is being made pursuant to the Registration Statement and the prospectus included in the Registration Statement, as supplemented by the preliminary prospectus supplement, dated February 6, 2012 (the Preliminary Prospectus Supplement), and final prospectus supplement, dated February 16, 2012 (the Final Prospectus Supplement), relating to the Shares. The Preliminary Prospectus Supplement was filed with the Commission pursuant to Rule 424(b) of the Securities Act of 1933, as amended (the Act), on February 6, 2012, and the Final Prospectus Supplement was filed with the Commission pursuant to Rule 424(b) of the Act on February 17, 2012.

The Underwriting Agreement contains customary representations, warranties, and covenants by the Company. It also provides for customary indemnification by each of the Company and the Underwriters for losses or damages arising out of or in connection with the sale of the Shares. In addition, pursuant to the terms of the Underwriting Agreement and related lock-up agreements, the Company and each director and executive officer and certain significant stockholders of the Company have agreed, subject to certain exceptions, not to sell, transfer or otherwise dispose of securities of the Company during the 45-day period following the pricing of the offering, subject to extension in certain circumstances.

The foregoing description of the Underwriting Agreement does not purport to be complete and is qualified in its entirety by reference to the full text of the Underwriting Agreement, a copy of which is attached hereto as Exhibit 1.1 and is incorporated by reference into this Item 1.01. A copy of the opinion of Greenberg Traurig, LLP relating to the legality of the issuance and sale of the Shares in the offering is attached hereto as Exhibit 5.1.

**Item 9.01 Financial Statements and Exhibits.**

(d) Exhibits.

Exhibit No.	Description
1.1	Underwriting Agreement dated February 16, 2012
5.1	Opinion of Greenberg Traurig, LLP
23.1	Consent of Greenberg Traurig, LLP (contained in legal opinion filed herewith as Exhibit 5.1)

**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.

INVIVO THERAPEUTICS HOLDINGS CORP.

Date: February 16, 2012

By: /s/ Frank M. Reynolds  
Frank M. Reynolds  
Chief Executive Officer