

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) July 8, 2021

NAVIDEA BIOPHARMACEUTICALS, INC.
(Exact name of registrant as specified in its charter)

Delaware 001-35076 31-1080091
(State or other jurisdiction (Commission (IRS Employer
of incorporation) File Number) Identification No.)

4995 Bradenton Avenue, Suite 240, Dublin, Ohio 43017
(Address of principal executive offices) (Zip Code)

Registrant's telephone number, including area code (614) 793-7500

(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 (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))

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 or Rule 12b-2 of the Securities Exchange Act of 1934.

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Securities registered pursuant to Section 12(b) of the Act:

<u>Title of Each Class</u>	<u>Trading Symbol(s)</u>	<u>Name of Each Exchange on Which Registered</u>
Common Stock, par value \$.001 per share	NAVB	NYSE American

Item 1.01 Entry into a Material Definitive Agreement.

On July 8, 2021 (the “Amendment Effective Date”), Navidea Biopharmaceuticals, Inc. (the “Company”) entered into an Amendment to Stock Purchase Agreement and Letter of Investment Intent (the “Amendment”) with Keystone Capital Partners, LLC (“Investor”) pursuant to which Investor agreed to purchase 22,077 shares of Series D Redeemable Convertible Preferred Stock (“Series D Preferred Stock”) on or before July 9, 2021 at 5 p.m. Eastern Time for an aggregate purchase price of \$2,207,700. The Amendment amends that certain Stock Purchase Agreement and Letter of Investment Intent (the “Purchase Agreement”) dated August 31, 2020 between the parties, pursuant to which Investor agreed to purchase 150,000 shares of Series D Preferred Stock for an aggregate purchase price of \$15,000,000 before the end of the nine-month period following the date when the Company’s registration statement on Form S-1 filed pursuant to the Purchase Agreement was declared effective. Prior to the Amendment Effective Date, Investor had purchased 72,500 shares of Series D Preferred Stock pursuant to the Purchase Agreement, leaving a remaining balance of 77,500 shares of Series D Preferred Stock. After purchasing 22,077 of the remaining shares, Investor has no further right or obligation to purchase shares of Series D Preferred Stock pursuant to the Purchase Agreement. The Amendment also contains a customary mutual release provision.

The foregoing description of the Amendment does not purport to be complete and is qualified in its entirety by reference to the full text of the Amendment, which is attached hereto as Exhibit 10.1 and incorporated by reference herein.

Item 5.02 Departure of Directors or Principal Officers; Election of Directors; Appointment of Principal Officers; Compensatory Arrangements of Certain Officers.

On July 8, 2021, the Company’s Board of Directors (the “Board”) established the size of the Board at seven directors, and appointed John K. Scott, Jr. and Alexander L. Cappello to fill the Board’s two vacancies. Messrs. Scott and Cappello will serve as directors in the classes with terms expiring at the Company’s 2023 and 2022 annual meetings of stockholders, respectively.

Mr. Scott, age 66, has served as the owner and manager of PCS, Inc. since 1997, where he is responsible for directing the acquisition, financing, sales and operations for land entitlement and development for privately owned condominium, apartment, hotel, single family and retail projects in California, Colorado and Texas. He has also served as the general partner of NJD, Ltd., a Texas limited partnership, since 1997 and as the managing member of Merging Interests, Inc. since 1980. Mr. Scott also has extensive experience in conducting due diligence, feasibility studies, financial analysis, cost estimates and transaction negotiations for the purchase, lease, development, marketing and sale of projects and properties. Mr. Scott earned a B.S. in agricultural economics with an emphasis on construction management and real estate from the University of Wisconsin. On June 15, 2021, Mr. Scott filed a Schedule 13D (Amendment No. 8) with the Securities and Exchange Commission (the “SEC”) reporting his beneficial ownership of approximately 32.8% of the Company’s common stock.

Mr. Cappello, age 65, has led several public and private companies over the past 46 years, including Cappello Global, LLC, a global investment bank, whose principals have transacted business in over 50 countries. He is also a director of The Cheesecake Factory Incorporated (Nasdaq), lead director of Virco Manufacturing Corporation (Nasdaq), The Agnew Companies and Caldera Medical Corp. Mr. Cappello is a director of RAND Corporation’s Center for Middle East Public Policy, the Center for Global Risk and Security, and the RAND-Russia Forum. Mr. Cappello is a former Chairman of Intelligent Energy, PLC (London), Inter-Tel (Nasdaq), and Geothermal Resources Intl. (AMEX), and a former director of Nano Financial Holdings and California Republic Bank. He is also a former advisor to the board of Gusmer Enterprises and former trustee and chairman of the investment committee of City of Hope. Mr. Cappello received a B.S. in management and finance from the Marshall School of Business at the University of Southern California.

Mr. Cappello will participate in the Company’s standard compensation program for non-employee directors, as described in the Company’s Annual Report on Form 10-K, filed with the SEC on March 26, 2021, except that pursuant to a recent amendment to that program, the retainers otherwise payable in cash will be paid 50% in cash and 50% in fully vested shares of the Company’s common stock. In light of Mr. Scott’s significant ownership in the Company, Mr. Scott has agreed to serve as a director without compensation.

There are no arrangements or understandings between either of Messrs. Scott or Cappello and any other person pursuant to which either was selected as a director of the Company and there are no family relationships between either of Messrs. Scott or Cappello and any of the Company's directors or executive officers.

On February 13, 2020, the Company entered into a stock purchase agreement with Mr. Scott (the "2020 Purchase Agreement") pursuant to which Mr. Scott purchased approximately 2.4 million shares of the Company's common stock for aggregate gross proceeds of approximately \$2.0 million. The Company agreed to file a registration statement on Form S-3 registering the resale of the shares of common stock issued to Mr. Scott, which was declared effective by the SEC on September 16, 2020. The foregoing description of the material terms of the 2020 Purchase Agreement is qualified in their entirety by reference thereto, which is filed as Exhibit 10.28 to the Company's Annual Report on Form 10-K filed with the SEC on March 18, 2020, which is incorporated herein by reference.

On March 2, 2021, the Company entered into a Stock Purchase Agreement and Letter of Investment Intent (the "Purchase Agreement") with Mr. Scott pursuant to which the Company issued to Mr. Scott in a private placement transaction 50,000 shares of newly-designated Series E Redeemable Convertible Preferred Stock (the "Transaction Shares") for an aggregate purchase price of \$5,000,000. The Transaction Shares have the rights set forth in the Series E Preferred Certificate (as defined below).

Under the Purchase Agreement, Mr. Scott was granted a right of first offer with respect to future issuances of Company securities (the "Right of First Offer"); provided, however, that in no event shall Mr. Scott have such right if the acquisition of any of such securities would result in him beneficially holding more than thirty three and one-third percent (33.33%) of the Company's outstanding common stock on an as-converted basis, as determined in accordance with Section 13(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and the rules thereunder (the "Share Cap"). In the event that Mr. Scott does not exercise the Right of First Offer, the Company will then be entitled to offer and sell the new securities to any third party at a price not less than, and upon terms no more favorable to the offeree than, those offered to Mr. Scott (a "Third Party Offering"). Pursuant to the Purchase Agreement, Mr. Scott also has the option to purchase up to thirty three and one-third percent (33.33%) of the new securities offered in a Third-Party Offering at the same price and upon the terms available to the other purchaser(s) (the "Preemptive Right"); provided, however, that in no event may Mr. Scott acquire new Company securities in a Third-Party Offering to the extent the acquisition thereof would violate the Share Cap. The Right of First Offer and the Preemptive Right will expire upon the earlier of (i) December 31, 2021 or (ii) upon the voluntary or involuntary liquidation, dissolution, or winding up of the Company.

In connection with the March 2, 2021 private placement, the Company entered into a registration rights agreement (the "Registration Rights Agreement"), pursuant to which, among other things, the Company agreed to prepare and file with the SEC one or more registration statements to register for resale the maximum number of Conversion Shares (as defined below) issuable upon conversion of the Transaction Shares. In the event that both (i) the number of shares of the Company's common stock beneficially held by Mr. Scott falls below twenty percent (20%) of the Company's outstanding common stock on an as-converted basis, as determined in accordance with Section 13(d) of the Exchange Act and the rules thereunder and (ii) Mr. Scott is an affiliate (as that term is defined under Rule 144) at the time of the Reload Request (as defined below), the Company, upon written request from Mr. Scott (the "Reload Request"), will be required to prepare and file with the SEC one, and only one, additional registration statement covering the resale of those shares of the Company's common stock owned by Mr. Scott as of the date of the Reload Request that, as of such time, are not registered for resale under the Securities Act of 1933, as amended.

The foregoing description of the material terms of the Purchase Agreement and the Registration Rights Agreement is qualified in its entirety by reference to such documents, which are filed as Exhibits 10.1 and 10.2, respectively, to the Company's Current Report on Form 8-K filed with the SEC on March 4, 2021, which are incorporated herein by reference.

There are no other transactions to which the Company is a party and in which either of Messrs. Scott or Cappello has a direct or indirect material interest that would be required to be disclosed under Item 404(a) of Regulation S-K.

In connection with their appointments, The Company will enter into standard Director Agreements with Messrs. Scott and Cappello, a form of which was previously filed as an exhibit to the Company's Current Report on Form 8-K filed May 10, 2016, which is incorporated by reference herein.

Item 9.01. Financial Statements and Exhibits.

- (a) Not applicable.
- (b) Not applicable.
- (c) Not applicable.
- (d) Exhibits

Exhibit No. Description

10.1 [Amendment to Stock Purchase Agreement and Letter of Investment Intent by and between the Company and Investor dated July 8, 2021](#)

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.

Navidea Biopharmaceuticals, Inc.

Date: July 13, 2021

By: /s/ Jed A. Latkin
Jed A. Latkin
Chief Executive Officer, Chief Operating Officer
and Chief Financial Officer

**AMENDMENT TO STOCK PURCHASE AGREEMENT AND
LETTER OF INVESTMENT INTENT**

THIS AMENDMENT TO STOCK PURCHASE AGREEMENT AND LETTER OF INVESTMENT INTENT (this "**Amendment**") is made and entered into effective as of July 8, 2021, by and between Navidea Biopharmaceuticals, Inc., a Delaware corporation (the "**Company**") and Keystone Capital Partners LLC, a Delaware limited liability company (the "**Investor**").

RECITALS:

A. The Company and the Investor are parties to a certain Stock Purchase Agreement and Letter of Investment Intent dated as of August 31, 2020 (the "**Stock Purchase Agreement**"). Capitalized terms not otherwise defined in this Amendment shall have the meanings assigned to them in the Stock Purchase Agreement.

B. Pursuant to the Stock Purchase Agreement, Investor agreed to purchase from time-to-time, at Call Closings to be held on dates of the Investor's choosing, a total of One Hundred and Fifty Thousand (150,000) shares of Series D Preferred Stock, par value \$0.001 per share, of the Company (the "**Shares**") at the Per Share Purchase Price of \$100.00 per Share, with the number of Shares to be sold and issued at each Call Closing to be determined by the Investor in its sole discretion, provided that all One Hundred and Fifty Thousand (150,000) Shares shall be purchased before the end of the 9-month period following the Effectiveness Date (the "**Call Option Period**").

C. The has Investor purchased Seventy-Two Thousand Five Hundred (72,500) Shares, leaving a remaining balance of Seventy-Seven Thousand Five Hundred (77,500) out of the One Hundred and Fifty Thousand (150,000) Shares (the "**Remaining Shares**").

D. Investor and the Company desire to amend the Stock Purchase Agreement to extend the expiration date of the Call Option Period upon the terms and subject to the conditions set forth in this Amendment.

AGREEMENTS:

NOW, THEREFORE, in consideration of the premises herein set forth and for other good and valuable consideration, the nature, receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby agree as follows:

1. Call Option Period Extension. The parties hereby agree that the expiration of the Call Option Period is extended until 5:00 p.m. Eastern time on July 9, 2021.
 2. Commitment to Purchase. Prior to the termination of the Call Option Period, the Investor shall purchase (and fully fund the purchase of) a total of 22,077 of the Remaining Shares. After purchasing 22,077 of the Remaining Shares, the Investor shall have no further right or obligation to purchase Shares pursuant to the Stock Purchase Agreement.
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3. Representations; No Default. The Investor and the Company each represents and warrants that: (a) such it has the power and legal right and authority to enter into this Amendment and has duly authorized the execution and delivery of this Amendment, (b) neither this Amendment nor the agreements contained herein contravene or constitute a default under any other agreement, instrument or indenture to which the Investor or the Company is a party or a signatory, or any provision of the Investor charter documents or, to the best of such the Investor's knowledge, any other agreement or requirement of law, (c) no consent, approval or authorization of or registration or declaration with any party, including but not limited to any governmental authority, is required in connection with the execution and delivery by the Investor or the Company of this Amendment or the performance of obligations of the Investor or the Company herein described, except for those which the Investor has obtained, and (d) the representations and warranties of the Investor and the Company contained in the Stock Purchase Agreement are true and correct on and as of the date hereof, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct as of such earlier date.

4. Affirmation, Further References. The Company and the Investor each acknowledge and affirm that the Stock Purchase Agreement, as hereby amended, is hereby ratified and confirmed in all respects and all terms, conditions and provisions of the Stock Purchase Agreement (except as amended by this Amendment) shall remain unmodified and in full force and effect. All references in any document or instrument to the Stock Purchase Agreement are hereby amended and shall refer to the Stock Purchase Agreement as amended by this Amendment.

5. Governing Law. This Amendment shall be governed by and construed in accordance with the laws of the State of Delaware without regard to the conflicts-of-law principles thereof.

6. Mutual Release. In consideration of the covenants, agreements, and undertakings of the parties under this Amendment, each of the Company and Investor, on behalf of itself and its respective present and former parents, subsidiaries, affiliates, officers, directors, shareholders, members, successors, and assigns (collectively, "**Releasors**") hereby releases, waives, and forever discharges the other party and its respective present and former, direct and indirect, parents, subsidiaries, affiliates, employees, officers, directors, shareholders, members, agents, representatives, permitted successors, and permitted assigns (collectively, "**Releasees**") of and from any and all actions, causes of action, suits, losses, liabilities, rights, debts, dues, sums of money, accounts, reckonings, obligations, costs, expenses, liens, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, extents, executions, claims, and demands, of every kind and nature whatsoever, whether now known or unknown, foreseen or unforeseen, matured or unmatured, suspected or unsuspected, in law, admiralty, or equity (collectively, "**Claims**"), which any of such Releasors ever had, now have, or hereafter can, shall, or may have against any of such Releasees for, upon, or by reason of any matter, cause, or thing whatsoever from the beginning of time through the date of this Amendment arising out of or relating to the Stock Purchase Agreement, except for any Claims relating to rights and obligations preserved by, created by, or otherwise arising out of this Amendment.

7. Counterparts; Headings; Signatures. This Amendment may be executed in counterparts, which taken together shall constitute one agreement binding on the parties hereto. Any section headings herein are for convenience only, do not constitute a part of this Amendment, and shall not be deemed to limit or affect any of the provisions hereof. Facsimile and electronically transmitted signatures shall be valid and binding to the same extent as original signatures.

8. Amendment Effectiveness. Notwithstanding anything herein to the contrary, in the event that Investor does not purchase (and fully fund the purchase of) a total of 22,077 of the Remaining Shares on or before 5:00 p.m. Eastern time on July 9, 2021, this Amendment shall be null and void ab initio in its entirety without any further action by the parties hereto.

Signature page follows.

IN WITNESS WHEREOF, the parties hereto have entered into this Amendment as of the date first above written.

THE COMPANY:

NAVIDEA BIOPHARMACEUTICALS, INC.

By: /s/ Jed A. Latkin
Jed A. Latkin, CEO, CFO, COO

THE INVESTOR:

KEYSTONE CAPITAL PARTNERS LLC

By: /s/ Fredric Zaino
Fredric Zaino, Manager