

GRANITE CONSTRUCTION INC  
Form S-8  
May 24, 2012

As filed with the Securities and Exchange Commission on May 24, 2012  
Registration No. 333-\_\_\_\_\_  
UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

FORM S-8  
REGISTRATION STATEMENT  
UNDER  
THE SECURITIES ACT OF 1933

GRANITE CONSTRUCTION INCORPORATED  
(Exact name of registrant as specified in its charter)

Delaware  
(State or other jurisdiction of incorporation)

77-0239383  
(IRS Employer Identification No.)

585 West Beach Street  
Watsonville, California 95076  
(Address of principal executive offices) (Zip Code)

Granite Construction Incorporated  
2012 Equity Incentive Plan  
(Full title of the plan)  
Richard A. Watts  
Vice President, General Counsel and Secretary  
Granite Construction Incorporated  
585 West Beach Street  
Watsonville, California 95076  
(Name and address of agent for service)  
(831) 724-1011  
(Telephone number, including area code of agent for service)

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer  Accelerated filer  Non-accelerated filer  Smaller reporting company



## Calculation of Registration Fee

Title of securities to be registered	Amount to be registered <sup>(1)(2)</sup>	Proposed maximum offering price per share <sup>(3)</sup>	Proposed maximum aggregate offering price <sup>(3)</sup>	Amount of registration fee
Common Stock, par value \$0.01 per share, not previously registered	1,000,000	\$22.60	\$22,600,000.00	\$2,589.96
Unused 1999 Plan Shares	978,102	\$22.60	\$22,105,105.20	\$2,533.25
Total	1,978,102	-	\$44,705,105.20	\$5,123.21

(1) Pursuant to Rule 416 under the Securities Act of 1933 (the "Securities Act"), this Registration Statement also covers an indeterminate number of additional securities that may be offered or issued under the Granite Construction Incorporated 2012 Equity Incentive Plan (the "2012 Plan") pursuant to the anti-dilution provisions contained therein.

(2) This Registration Statement covers (A) 1,000,000 shares of Common Stock, par value \$0.01 per share ("Common Stock"), of Granite Construction Incorporated (the "Company") issuable under the 2012 Plan that have not previously been registered, plus (B) 978,102 shares of Common Stock authorized to be awarded under the Granite Construction Incorporated Amended and Restated 1999 Equity Incentive Plan (the "1999 Plan"), which shares had not been issued and were not subject to outstanding awards granted under the 1999 Plan as of May 24, 2012 (the "Unused 1999 Plan Shares"). An additional 688,785 shares of Common Stock are currently subject to outstanding awards under the 1999 Plan and could potentially become available for issuance in the future under the 2012 Plan to the extent such shares of Common Stock are not issued or delivered to the applicable participants under the 1999 Plan for any reason, but such shares are not at this time covered by this Registration Statement.

(3) The Unused 1999 Plan Shares were previously registered by the Company on registration statements on Form S-8 (File Nos. 333-80471 and 333-118299) filed with the Securities and Exchange Commission on June 11, 1999 and August 17, 2004, respectively. Concurrently with the filing of this Registration Statement, the Company has filed a post-effective amendment to those registration statements deregistering the Unused 1999 Plan Shares that are being carried forward under this Registration Statement. Estimated solely for the purposes of determining the amount of the registration fee in accordance with Rule 457(c) and 457(h) under the Securities Act. The \$22.60 price is based upon the average of the high and low sale prices of the Common Stock on May 21, 2012, a date within five business days prior to the filing this Registration Statement, as reported on the New York Stock Exchange.

PART I

INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS

In accordance with Rule 428 under the Securities Act of 1933 (the "Securities Act") and the instructional note to Part I of Form S-8, the information specified in Part I of Form S-8 is not filed with this registration statement.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference

Granite Construction Incorporated, a Delaware corporation (the "Company"), hereby incorporates by reference in this registration statement the following documents:

(a)The Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2011, filed with the Securities and Exchange Commission (the "Commission") on February 23, 2012;

(b)The Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2012, filed with the Commission on May 8, 2010;

(c)The Company's Current Reports on Form 8-K filed with the Commission on February 23, 2012 and May 8, 2012; and

(d)The description of the Company's Common Stock contained in the Company's Registration Statement on Form 8-A filed with the Commission on April 21, 1997, including any amendment or report filed for the purpose of updating such description.

All documents subsequently filed by the Company pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Securities Exchange Act of 1934 (the "Exchange Act"), prior to the filing of a post-effective amendment to this registration statement which indicates that all securities offered hereby have been sold or which deregisters all securities remaining unsold, shall be deemed to be incorporated by reference in this registration statement and to be a part hereof from the date of filing such documents.

Item 4. Description of Securities

Not applicable.

Item 5. Interests of Named Experts and Counsel

Not applicable.

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Item 6. Indemnification of Directors and Officers

Section 102(b) of the General Corporation Law of the State of Delaware (the “DGCL”) authorizes a corporation to provide in its certificate of incorporation that a director of the corporation shall not be personally liable to corporation or its stockholders for monetary damages for breach of fiduciary duty as a director. While this statute does not change a director's fiduciary duties, it enables corporations to limit available relief to equitable remedies such as injunction or rescission. The statute does not eliminate monetary damages for, and otherwise has no effect on, a director's duty of loyalty or liability for acts or omissions not in good faith or involving intentional misconduct or knowing violations of law, illegal payment of dividends or stock redemptions or repurchases, or for any transaction from which the director derives an improper personal benefit. As permitted by the statute, the Company has adopted provisions in its certificate of incorporation, as amended (the “Certificate of Incorporation”), which eliminate to the fullest extent permissible under Delaware law the personal liability of its directors to the Company and its stockholders for monetary damages.

Section 145 of the DGCL provides that a corporation may indemnify officers, directors, employees and agents of a corporation against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by the person in connection with various actions, suits or proceedings, whether civil, criminal, administrative or investigative (other than an action by or in the right of the corporation), if they acted in good faith and in a manner they reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe their conduct was unlawful. The amended bylaws of the Company (the “Bylaws”) provide for indemnification of its directors, officers, employees and agents to the fullest extent permitted by under Delaware law. The Bylaws also empower the Company to enter into indemnification agreements with its directors and officers and to purchase insurance on behalf of any person whom it is required or permitted to indemnify. The Company has entered into agreements with its directors and certain of its executive officers that require the Company to indemnify such persons to the fullest extent permitted under Delaware law against expenses, judgments, fines, settlements and other amounts actually and reasonably incurred (including expenses of a derivative action) in connection with any proceeding, whether actual or threatened, to which any such person may be made a party by reason of the fact that such person is or was a director or an executive officer of the Company or any of its affiliated enterprises. The indemnification agreements also set forth certain procedures that will apply in the event of a claim for indemnification thereunder. The Company maintains standard policies of insurance under which coverage is provided to its directors and officers against loss arising from claims made by breach of duty or other wrongful act.

Section 145 of the DGCL, the Bylaws and our indemnification agreements provide for indemnification in terms that may be sufficiently broad to indemnify covered individuals, under certain circumstances, for liabilities (including reimbursement of expenses incurred) arising under the Securities Act.

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The foregoing discussion of the Certificate of Incorporation, Bylaws, indemnification agreements and Sections 102(b) and 145 of the DGCL is not intended to be exhaustive and is qualified in its entirety by the Certificate of Incorporation, Bylaws, the indemnification agreements and the DGCL.

Item 7. Exemption from Registration Claimed

Not applicable.

Item 8. Exhibits

- 4.1 Certificate of Incorporation of the Company, as amended (incorporated by reference to Exhibit 3.1.b to the Company's Form 10-Q for the quarter ended June 30, 2006, filed with the Commission on August 7, 2006 (File No. 001-12911))
- 4.2 Amended Bylaws of the Company (incorporated by reference to Exhibit 3.1 to the Company's Form 8-K filed with the Commission on November 15, 2011 (File No. 001-12911))
- 5 Opinion of Jones Day regarding legality
- 23.1 Consent of Jones Day (included in Exhibit 5)
- 23.2 Consent of PricewaterhouseCoopers LLP
- 24 Power of Attorney (included in signature pages to this registration statement)
- 99.1 Granite Construction Incorporated 2012 Equity Incentive Plan (incorporated by reference to Appendix A to the Company's Proxy Statement filed with the Commission on April 11, 2012 (File No. 001-12911))

Item 9. Undertakings

The undersigned registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:

(i) To include any prospectus required by Section 10(a)(3) of the Securities Act;

(ii) To reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement; and

(iii) To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement;

provided, however, that paragraphs (1)(i) and (1)(ii) do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed with or furnished to the Commission by the registrant pursuant to Section 13 or Section 15(d) of the Exchange Act that are incorporated by reference in the registration statement.

(2) That, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

The undersigned registrant hereby undertakes that, for purposes of determining any liability under the Securities Act, each filing of the registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Exchange Act (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Exchange Act) that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

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**SIGNATURE**

Pursuant to the requirements of the Securities Act of 1933, as amended, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Watsonville, State of California, on May 24, 2012.

**GRANITE CONSTRUCTION INCORPORATED**

By: /s/ Richard A. Watts  
Richard A. Watts  
Vice President, General Counsel & Secretary

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**SIGNATURES AND POWER OF ATTORNEY**

The officers and directors of Granite Construction Incorporated, whose signatures appear below, hereby constitute and appoint James H. Roberts and Richard A. Watts, and each of them, their true and lawful attorneys and agents, with full power of substitution, each with power to act alone, to sign and execute on behalf of the undersigned any amendment or amendments to this registration statement on Form S-8, and each of the undersigned does hereby ratify and confirm all that each of said attorney and agent, or their or his or her substitutes, shall do or cause to be done by virtue hereof. Pursuant to the requirements of the Securities Act of 1933, as amended, this registration statement has been signed by the following persons in the capacities indicated on May 24, 2012.

Signature	Title
/s/ William H. Powell William H. Powell	Chairman of the Board
/s/ James H. Roberts James H. Roberts	President, Chief Executive Officer And Director (Principal Executive Officer)
/s/ Laurel J. Krzeminski Laurel J. Krzeminski	Vice President and Chief Financial Officer (Principal Financial and Accounting Officer)
/s/ Claes G. Bjork Claus G. Bjork	Director
/s/ James W. Bradford, Jr. James W. Bradford, Jr.	Director
/s/ Gary M. Cusumano Gary M. Cusumano	Director
/s/ William G. Dorey William G. Dorey	Director
/s/ David H. Kelsey David H. Kelsey	Director
/s/ Rebecca A. McDonald Rebecca A. McDonald	Director

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EXHIBIT INDEX

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