

Terreno Realty Corp
Form S-8
February 12, 2010

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As filed with the Securities and Exchange Commission on February 12, 2010

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549**

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

Terreno Realty Corporation
(Exact name of registrant as specified in its charter)

Maryland
(State or other jurisdiction of incorporation or
organization)

27-1262675
(I.R.S. Employer Identification No.)

**16 Maiden Lane, Fifth Floor
San Francisco, CA 94108
(415) 655-4580**
(Address of Principal Executive Offices)

**Terreno Realty Corporation
2010 Equity Incentive Plan**
(Full title of the plans)

**W. Blake Baird
Chairman and Chief Executive Officer
Terreno Realty Corporation
16 Maiden Lane, Fifth Floor
San Francisco, CA 94108
(415) 655-4580**
(Name and Address of Agent For Service)

(Telephone number, including area code, of agent for service)

With a copy to:

**Gilbert G. Menna
Ettore A. Santucci
Goodwin Procter LLP
Exchange Place
Boston, Massachusetts 02109**

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

(Do not check if a smaller
reporting company)

CALCULATION OF REGISTRATION FEE

Title of securities to be registered	Amount to be Registered(1)	Proposed maximum offering price per share(2)	Proposed maximum aggregate offering price	Amount of Registration fee(3)(4)
Common Stock, \$0.01 par value per share	455,000	\$18.74	\$8,526,700	\$608

(1) Pursuant to Rule 416 under the Securities Act of 1933, as amended (the Securities Act), the number of shares of Common Stock, \$0.01 par value per share, of the Company (Common Stock) registered hereby includes an indeterminate number of shares of Common Stock that may be issued in connection with stock splits, stock dividends, recapitalizations or similar transactions.

(2) Calculated in accordance with Rule 457(c) under the Securities Act based on the average of the high and the low sales prices of the Company's Common Stock as reported on the New York Stock Exchange on February 10, 2010.

- (3) Computed in accordance with Rule 457(c) and (h) under the Securities Act.
- (4) The Company previously paid a fee of \$25,668 in connection with the initial filing of its Registration Statement on Form S-11 (File No. 333-163016) (the S-11 Registration Statement) with the Securities and Exchange Commission on November 10, 2009 to register the issuance and sale of shares of the Company s Common Stock with a proposed maximum aggregate offering price of \$400,000,000 in connection with the Company s initial public offering. The Company intends to sell up to 10,062,500 shares of Common Stock (including 1,312,500 shares of Common Stock that may be purchased by the underwriters upon the exercise of their

option to purchase additional shares). Pursuant to Rule 457(p) under the Securities Act, the Company is offsetting the entire registration fee due under this Registration Statement on Form S-8 against the amount of the registration fee that is remaining from the registration fee paid in connection with the S-11 Registration Statement.

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**PART I
INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS**

Item 1. Plan Information.*

Item 2. Registrant Information and Employee Plan Annual Information.*

* The document(s) containing the information specified in this Part I will be sent or given to participants in the Terreno Realty Corporation 2010 Equity Incentive Plan in accordance with Rule 428(b)(1) under the Securities Act of 1933, as amended (the Securities Act). Such documents need not be filed with the Securities and Exchange Commission (the Commission) either as part of this Registration Statement or as prospectuses or prospectus supplements pursuant to Rule 424 promulgated under the Securities Act. These document(s) and the documents incorporated by

reference in this
Registration
Statement
pursuant to
Item 3 of Part II
hereof, taken
together,
constitute a
prospectus that
meets the
requirements of
Section 10(a) of
the Securities
Act.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

The following documents filed by Terreno Realty Corporation (the "Company") with the Commission pursuant to the Securities Act, and the Securities Exchange Act of 1934, as amended (the "Exchange Act"), are incorporated herein by reference and made a part hereof:

(a) The Company's prospectus filed pursuant to Rule 424(b) under the Securities Act on February 10, 2010.

(b) The description of the Company's Common Stock, \$0.01 par value per share, contained in the Company's Registration Statement on Form 8-A filed under the Exchange Act on January 14, 2010.

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

Any statement contained herein or in a document, all or a portion of which is incorporated or deemed to be incorporated by reference herein, shall be deemed to be modified or superseded for purposes of this Registration Statement to the extent that a statement contained herein or in any other subsequently filed document that also is or is deemed to be incorporated by reference herein modifies or supersedes such statement. Any such statement so modified or superseded shall not be deemed, except as so modified or amended, to constitute a part of this Registration Statement.

Item 4. Description of Securities.

Not applicable.

Item 5. Interests of Named Experts and Counsel.

Not applicable.

Item 6. Indemnification of Directors and Officers.

The Maryland General Corporation Law (the "MGCL") permits a Maryland corporation to include in its charter a provision limiting the liability of its directors and officers to the corporation and its stockholders for money damages except for liability resulting from actual receipt of an improper benefit or profit in money, property or services or active and deliberate dishonesty that is established by a final judgment and is material to the cause of action. The Company's charter contains a provision that eliminates such liability to the maximum extent permitted by Maryland law.

The Company's charter authorizes the Company, to the maximum extent that Maryland law in effect from time to time permits, to indemnify any present or former director or officer or any individual who, while a director or officer of the Company and at the Company's request, serves or has served another corporation, real estate investment trust, partnership, limited liability company, joint venture, trust, employee benefit plan or other enterprise as a director, officer, partner, member, manager or trustee, from and against any claim or liability to which that individual may become subject or which that individual may incur by reason of his or her service in any such capacity and to pay or reimburse his or her reasonable expenses in advance of final disposition of a proceeding. The Company's bylaws

obligate the Company, to the fullest extent permitted by Maryland law in effect from time to time, to indemnify and, without requiring a preliminary determination of the ultimate entitlement to indemnification, pay or reimburse reasonable expenses in advance of final disposition of a proceeding to:

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any present or former director or officer who is made or threatened to be made a party to the proceeding by reason of his or her service in that capacity; or

any individual who, while a director or officer of the Company and at the Company's request, serves or has served another corporation, real estate investment trust, partnership, limited liability company, joint venture, trust, employee benefit plan or any other enterprise as a director, officer, partner, member, manager or trustee of such corporation, real estate investment trust, partnership, limited liability company, joint venture, trust, employee benefit plan or other enterprise and who is made or threatened to be made a party to the proceeding by reason of his or her service in that capacity.

The Company's charter and bylaws also permit the Company to indemnify and advance expenses to any person who served a predecessor of the Company in any of the capacities described above and to any employee or agent of the Company or a predecessor of the Company.

The MGCL requires a corporation (unless its charter provides otherwise, which the Company's charter does not) to indemnify a director or officer who has been successful, on the merits or otherwise, in the defense of any proceeding to which he or she is made or threatened to be made a party by reason of his or her service in that capacity. The MGCL permits a corporation to indemnify its present and former directors and officers, among others, against judgments, penalties, fines, settlements and reasonable expenses actually incurred by them in connection with any proceeding to which they may be made or are threatened to be made a party by reason of their service in those or other capacities unless it is established that:

the act or omission of the director or officer was material to the matter giving rise to the proceeding; and was committed in bad faith; or

was the result of active and deliberate dishonesty; the director or officer actually received an improper personal benefit in money, property or services; or

in the case of any criminal proceeding, the director or officer had reasonable cause to believe that the act or omission was unlawful.

However, under the MGCL, a Maryland corporation may not indemnify for an adverse judgment in a suit by or in the right of the corporation or for a judgment of liability on the basis that personal benefit was improperly received. A court may order indemnification if it determines that the director or officer is fairly and reasonably entitled to indemnification, even though the director or officer did not meet the prescribed standard of conduct, was adjudged liable to the corporation or was adjudged liable on the basis that personal benefit was improperly received. However, indemnification for an adverse judgment in a suit by or in the right of the corporation, or for a judgment of liability on the basis that personal benefit was improperly received, is limited to expenses.

In addition, the MGCL permits a corporation to advance reasonable expenses to a director or officer upon the corporation's receipt of:

a written affirmation by the director or officer of his good faith belief that he has met the standard of conduct necessary for indemnification by the corporation; and

a written undertaking by the director or officer or on the director's or officer's behalf to repay the amount paid or reimbursed by the corporation if it is ultimately determined that the director or officer did not meet the standard of conduct.

Insofar as the foregoing provisions permit indemnification of directors, officers or persons controlling the Company for liability arising under the Securities Act, the Company has been informed that in the opinion of the SEC, this indemnification is against public policy as expressed in the Securities Act and is therefore unenforceable.

The Company expects to enter into customary indemnification agreements with each of its executive officers and directors. The Company expects the form of indemnification agreement will provide that if a director or executive officer is a party or is threatened to be made a party to any proceeding by reason of the director's or executive officer's status as a director, officer, employee or agent of the Company or as a director, trustee, officer, partner, manager,

managing member, fiduciary, employee or agent of any other foreign or domestic corporation, partnership, limited liability company, joint venture, trust, employee benefit plan or other enterprise that the director or executive officer is or was serving in such capacity at the Company's request, the Company must indemnify such director or executive officer for all expenses and liabilities actually and reasonably incurred by him or her, or on his or her behalf, unless it has been established that:

the act or omission of the director or executive officer was material to the matter giving rise to the proceeding and was committed in bad faith or was the result of active and deliberate dishonesty;

the director or executive officer actually received an improper personal benefit in money, property or other services; or

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with respect to any criminal action or proceeding, the director or executive officer had reasonable cause to believe that his or her conduct was unlawful.

Except as described below, the Company's directors and executive officers will not be entitled to indemnification pursuant to the indemnification agreement:

if the proceeding was one brought by the Company or in the Company's right and the director or executive officer is adjudged to be liable to the Company;

if the director or executive officer is adjudged to be liable on the basis that personal benefit was improperly received; or

in any proceeding brought by the director or executive officer other than to enforce his or her rights under the indemnification agreement, and then only to the extent provided by the agreement, and except as may be expressly provided in the Company's charter, the Company's bylaws, a resolution of the Company's board of directors or of the Company's stockholders entitled to vote generally in the election of directors or an agreement approved by the Company's board of directors.

Notwithstanding the limitations on indemnification described above, upon application of a director or executive officer of the Company to a court of appropriate jurisdiction, the court may order indemnification of such director or executive officer if:

the court determines that the director or executive officer is entitled to mandatory indemnification under the MGCL, in which case the director or executive officer will be entitled to recover from us the expenses of securing indemnification; or

the court determines that the director or executive officer is fairly and reasonably entitled to indemnification in view of all the relevant circumstances, whether or not the director or executive officer has met the standards of conduct described above or has been adjudged liable to the Company or for receipt of an improper personal benefit; however, the Company's indemnification obligations to the director or executive officer will be limited to the expenses actually and reasonably incurred by him or her, or on his or her behalf, in connection with any proceeding by the Company or in the Company's right or in which the officer or director was adjudged liable for receipt of an improper personal benefit.

Without limiting any other provisions of the indemnification agreements, if a director or executive officer is a party or is threatened to be made a party to any proceeding by reason of the director's or executive officer's status as a director, officer or employee of the Company, and the director or executive officer is successful, on the merits or otherwise, as to one or more (even if fewer than all) claims, issues or matters in such proceeding, the Company must indemnify the director or executive officer for all expenses actually and reasonably incurred by him or her, or on his or her behalf, in connection with each successfully resolved claim, issue or matter, including any claim, issue or matter in such a proceeding that is terminated by dismissal, with or without prejudice.

The Company must pay all indemnifiable expenses in advance of the final disposition of any proceeding without requiring any preliminary determination of the director or executive officer's ultimate entitlement to indemnification if the director or executive officer furnishes us with a written affirmation of the director's or executive officer's good faith belief that the standard of conduct necessary for indemnification by the Company has been met and a written undertaking to reimburse us if a court of competent jurisdiction determines that the director or executive officer is not entitled to indemnification. The Company will not be required to advance the expenses of any director or executive officer in any proceeding brought by the director or executive officer except for a proceeding brought by the director or executive officer to enforce his or her rights under the indemnification agreement, and then only to the extent provided by the agreement, and except as may be expressly provided in the Company's charter, the Company's bylaws, a resolution of the Company's board of directors or of the Company's stockholders entitled to vote generally in the election of directors or an agreement approved by the Company's board of directors.

The Company obtained an insurance policy under which the Company's directors and executive officers will be insured, subject to the limits of the policy, against certain losses arising from claims made against such directors and

officers by reason of any acts or omissions covered under such policy in their respective capacities as directors or officers.

Item 7. Exemption from Registration Claimed.

Not applicable.

Item 8. Exhibits.

Exhibit

Number Description

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|-----|---|
| 4.1 | Articles of Amendment and Restatement of the Company (incorporated by reference to Exhibit 3.1 to Amendment No. 2 to the Company's Registration Statement on Form S-11 (File No. 333-163016) filed with the Commission on January 6, 2010). |
| 4.2 | Amended and Restated Bylaws of the Company (incorporated by reference to Exhibit 3.2 to Amendment No. 2 to the Company's Registration Statement on Form S-11 (File No. 333-163016) filed with the Commission on January 6, 2010). |
| 4.3 | Specimen Common Stock Certificate of the Company (incorporated by reference to Exhibit 4.1 to Amendment No. 3 to the |
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Exhibit

Number	Description
	Company's Registration Statement on Form S-11 (File No. 333-163016) filed with the Commission on January 15, 2010).
4.4	2010 Equity Incentive Plan of the Company (incorporated by reference to Exhibit 10.3 to Amendment No. 2 to the Company's Registration Statement on Form S-11 (File No. 333-163016) filed with the Commission on January 6, 2010).
4.5	Form of Restricted Stock Award Agreement for Executive Officers and Employees (incorporated by reference to Exhibit 10.4 to Amendment No. 2 to the Company's Registration Statement on Form S-11 (File No. 333-163016) filed with the Commission on January 6, 2010).
4.6	Form of Restricted Stock Award Agreement for Non-Employee Directors (incorporated by reference to Exhibit 10.5 to Amendment No. 2 to the Company's Registration Statement on Form S-11 (File No. 333-163016) filed with the Commission on January 6, 2010).
5.1*	Opinion of Goodwin Procter LLP
23.1*	Consent of Goodwin Procter LLP (included in Exhibit 5.1)
23.2*	Consent of Deloitte & Touche LLP
24.1*	Power of Attorney (included on signature page hereto)

* Filed herewith.

Item 9. Undertakings.

(a) 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 of 1933;

(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. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than 20% change in the maximum aggregate offering price set forth in the Calculation of Registration Fee table in the effective registration statement.

(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 (a)(1)(i) and (a)(1)(ii) of this Section do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the Commission by the registrant pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in the registration statement.

(2) That, for the purpose of determining any liability under the Securities Act of 1933, 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.

(b) The undersigned registrant hereby undertakes that, for purposes of determining any liability under the Securities Act of 1933, each filing of the registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934 (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Securities Exchange Act of 1934) 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.

(c) Insofar as indemnification for liabilities arising under the Securities Act of 1933 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 Securities and Exchange Commission such indemnification is against public policy as expressed in the 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 trustee, 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 Act and will be governed by the final adjudication of such issue.

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SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, 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 San Francisco, State of California, on this 12th day of February, 2010.

Terreno Realty Corporation

By: /s/ W. Blake Baird
 Name: W. Blake Baird
 Title: Chairman and Chief Executive
 Officer

POWER OF ATTORNEY

Each person whose signature appears below hereby constitutes and appoints W. Blake Baird and Michael A. Coke, and each of them, as his attorney-in-fact and agent, with full power of substitution and resubstitution for him in any and all capacities, to sign any or all amendments or post-effective amendments to this registration statement, and to file the same, with exhibits thereto and other documents in connection therewith, granting unto such attorney-in-fact and agent full power and authority to do and perform each and every act and thing requisite and necessary in connection with such matters and hereby ratifying and confirming all that such attorney-in-fact and agent or his substitutes may do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the date indicated.

Signature	Title	Date
/s/ W. Blake Baird W. Blake Baird	Chairman and Chief Executive Officer and Director (principal executive officer)	February 12, 2010
/s/ Michael A. Coke Michael A. Coke	President, Chief Financial Officer and Director (principal financial and accounting officer)	February 12, 2010
/s/ LeRoy E. Carlson LeRoy E. Carlson	Director	February 12, 2010

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Exhibit

Number Description

- 4.1 Articles of Amendment and Restatement of the Company (incorporated by reference to Exhibit 3.1 to Amendment No. 2 to the Company's Registration Statement on Form S-11 (File No. 333-163016) filed with the Commission on January 6, 2010).
- 4.2 Amended and Restated Bylaws of the Company (incorporated by reference to Exhibit 3.2 to Amendment No. 2 to the Company's Registration Statement on Form S-11 (File No. 333-163016) filed with the Commission on January 6, 2010).
- 4.3 Specimen Common Stock Certificate of the Company (incorporated by reference to Exhibit 4.1 to Amendment No. 3 to the Company's Registration Statement on Form S-11 (File No. 333-163016) filed with the Commission on January 15, 2010).
- 4.4 2010 Equity Incentive Plan of the Company (incorporated by reference to Exhibit 10.3 to Amendment No. 2 to the Company's Registration Statement on Form S-11 (File No. 333-163016) filed with the Commission on January 6, 2010).
- 4.5 Form of Restricted Stock Award Agreement for Executive Officers and Employees (incorporated by reference to Exhibit 10.4 to Amendment No. 2 to the Company's Registration Statement on Form S-11 (File No. 333-163016) filed with the Commission on January 6, 2010).
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