

HERITAGE COMMERCE CORP  
Form 424B3  
April 26, 2011

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Registration Statement No. 333-168299

PROSPECTUS

## **HERITAGE COMMERCE CORP**

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**14,398,992 Shares of Common Stock**

**21,004 Shares of Series C Convertible Perpetual Preferred Stock**

**5,601,000 Shares of Common Stock Underlying the Series C Preferred Stock**

This prospectus relates to the Securities listed below that may be offered for sale from time to time by the persons named in this prospectus (and their transferees) identified under the heading "selling securityholders" on page 12 of this prospectus who currently own such securities or may acquire such securities upon the conversion of securities currently held. We refer to these persons as the "selling securityholders."

An investment in the securities involves risks. You should carefully consider all of the information set forth in this prospectus, including the risk factors beginning on page 3 of this prospectus, as well as the risk factors and other information contained in any documents we incorporate by reference into this prospectus before investing in any of the securities.

This prospectus covers the following securities:

The shares of our Common Stock, no par value ("Common Stock"), issued upon the mandatory conversion into Common Stock of our Series B Mandatorily Convertible Cumulative Perpetual Preferred Stock ("Series B Preferred Stock");

Some or all of the 21,004 shares of our Series C Convertible Perpetual Preferred Stock ("Series C Preferred Stock");

The shares of our Common Stock issuable upon the mandatory conversion into Common Stock of our Series C Preferred Stock.

Pursuant to a Securities Purchase Agreement, dated June 18, 2010, entered into by Heritage Commerce Corp and each of the selling securityholders (or an affiliate of the selling securityholders), we issued shares of Series B Preferred Stock and Series C Preferred Stock to the selling securityholders in a private placement transaction exempt from the registration requirements of the Securities Act of 1933, as amended. We refer to this transaction as the "June 2010 Private Placement." At the Company's Special Meeting of Shareholders held on September 15, 2010, the Company's shareholders approved the issuance of Common Stock upon the conversion of the Series B Preferred Stock and upon the conversion of the Series C Preferred Stock as required by The NASDAQ Stock Market and California corporate law. As a result, on September 16, 2010, the Series B Preferred Stock was converted into 14,398,992 shares of Common Stock and the shares of Series B Preferred Stock ceased to be outstanding. The Series C Preferred Stock remains outstanding until it has been converted into Common Stock in

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accordance with its terms.

When used in this prospectus, the term "Securities" refers to the shares of Series C Preferred Stock and the shares of Common Stock. We agreed in the Securities Purchase Agreement to file this resale registration statement covering these Securities.

The selling securityholders who may sell or otherwise dispose of the Securities were the initial investors (or the permitted affiliate transferees of such investors) in the June 2010 Private Placement described above. The selling securityholders may offer the Securities from time to time directly or through underwriters, broker-dealers or agents and in one or more public or private transactions and at fixed prices, at prevailing market prices, at prices related to prevailing market prices, at various prices determined at the time of sale or otherwise or at negotiated prices. If the Securities are sold through underwriters, broker-dealers or agents, the selling securityholders (or the purchasers of the Securities as negotiated with the selling securityholders) will be responsible for underwriting discounts or commissions or agent commissions, if any. The registration of the Securities does not necessarily mean that any of the Securities will be sold by the selling securityholders. The timing and amount of any sale is within the selling securityholder's sole discretion, subject to certain restrictions. See "Plan of Distribution."

We will not receive any proceeds from the sale of Securities by the selling securityholders.

Shares of our Common Stock are traded on the NASDAQ Global Select Market under the symbol "HTBK." The Series C Preferred Stock is not currently listed on any established securities exchange or quotation system, and we do not intend to seek such listings. In the event we were to seek such listings, there is no guarantee that any established securities exchange or quotation system would accept the Series C Preferred Stock for listing.

**None of the Securities and Exchange Commission, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System or any state securities commission has approved or disapproved of these Securities or passed upon the adequacy or accuracy of this prospectus. Any representation to the contrary is a criminal offense.**

**These Securities are not savings accounts, deposits or other obligations of any bank and are not insured or guaranteed by the Federal Deposit Insurance Corporation, the Deposit Insurance Fund or any other government agency or fund.**

This date of this prospectus is March 29, 2011.

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**ABOUT THIS PROSPECTUS**

You should rely only on the information contained or incorporated by reference in this prospectus. We have not authorized anyone to provide you with different or inconsistent information. If anyone provides you with different or inconsistent information, you should not rely on it. We are not making an offer to sell these Securities in any jurisdiction where the offer or sale is not permitted. You should not assume that the information contained in this prospectus or the documents incorporated by reference is accurate as of any date other than the date of such applicable document. Our business, financial condition, results of operations and prospects may have changed since that date.

Unless we state otherwise or the context indicates otherwise, references to "Heritage," "we," "us," "our" and "the Company" in this prospectus refer to Heritage Commerce Corp and its subsidiaries. References to "Heritage Bank of Commerce" or "HBC" mean our wholly-owned banking subsidiary.

**CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS**

This prospectus including the documents incorporated by reference in it, contains various statements that may constitute forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended ("Securities Act"), and Section 21E of the Securities Exchange Act of 1934, as amended ("Securities Exchange Act"), and are intended to be covered by the safe harbor provisions of the Private Securities Litigation Reform Act of 1995. Any statements about our expectations, beliefs, plans, objectives, assumptions or future events or performance are not historical facts and may be forward-looking. These forward-looking statements often can be, but are not always, identified by the use of words such as "assume," "expect," "intend," "plan," "project," "believe," "estimate," "predict," "anticipate," "may," "might," "should," "could," "goal," "potential" and similar expressions. We base these forward-looking statements on our current expectations and projections about future events, our assumptions regarding these events and our knowledge of facts at the time the statements are made. These statements include statements relating to our projected growth, anticipated future financial performance, and management's long-term performance goals, as well as statements relating to the anticipated effects on results of operations and financial condition.

These forward-looking statements are subject to various risks and uncertainties that may be outside our control and our actual results could differ materially from our projected results. In addition, our past results of operations do not necessarily indicate our future results. Please see our most recent Annual Report on Form 10-K for the year ended December 31, 2010 and our subsequent Quarterly Reports on Form 10-Q and the other information contained in this prospectus for a further discussion of these and other risks and uncertainties applicable to our business. The forward-looking statements could be affected by many factors, including but not limited to:

Competition for loans and deposits and failure to attract or retain deposits and loans;

Local, regional, and national economic conditions and events and the impact they may have on us and our customers, and our assessment of that impact on our estimates including, the allowance for loan losses;

Risks associated with concentrations in real estate related loans;

Changes in the level of nonperforming assets and charge-offs and other credit quality measures, and their impact on the adequacy of the Company's allowance for loan losses and the Company's provision for loan losses;

The effects of and changes in trade, monetary and fiscal policies and laws, including the interest rate policies of the Federal Open Market Committee of the Federal Reserve Board;

Stability of funding sources and continued availability of borrowings;

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Our compliance with and the effects of the regulatory Written Agreement the Company and Heritage Bank of Commerce, its subsidiary bank, have entered into with their regulators;

The effect of changes in laws and regulations with which the Company and Heritage Bank of Commerce must comply, including any increase in FDIC insurance premiums;

Our ability to raise capital or incur debt on reasonable terms;

Regulatory limits on Heritage Bank of Commerce's ability to pay dividends to the Company;

Future legislative or administrative changes to the U.S. Treasury Capital Purchase Program enacted under the Emergency Economic Stabilization Act of 2008;

The impact of the Emergency Economic Stabilization Act of 2008 and the American Recovery and Reinvestment Act of 2009 and related rules and regulations on our business operations and competitiveness, including the impact of executive compensation restrictions, which may affect our ability to retain and recruit executives in competition with other firms who do not operate under those restrictions;

The impact of the Dodd Frank Wall Street Reform and Consumer Protection Act signed by President Obama on July 21, 2010;

The effect of changes in accounting policies and practices, as may be adopted by the regulatory agencies, as well as the Public Company Accounting Oversight Board, the Financial Accounting Standards Board and other accounting standard setters;

Changes in the deferred tax asset valuation allowance in future quarters;

The costs and effects of legal and regulatory developments, including resolution of legal proceedings or regulatory or other governmental inquiries, and the results of regulatory examinations or reviews;

The ability to increase market share and control expenses; and

Our success in managing the risks involved in the foregoing items.

We are not able to predict all the factors that may affect future results. You should not place undue reliance on any forward-looking statement, which speaks only as of the date of this prospectus or the date of the document incorporated by reference. Except as required by applicable laws or regulations, we do not undertake any obligation to update or revise any forward-looking statement, whether as a result of new information, future events or otherwise.

**INFORMATION INCORPORATED BY REFERENCE**

The SEC allows us to "incorporate by reference" the information contained in the documents we file with the SEC, which means that we can disclose important information to you in this prospectus by referring you to those documents. The information incorporated by reference is considered to be part of this prospectus.

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We incorporate by reference the documents listed below (other than filings or portions of filings that, under applicable SEC rules, are "furnished" rather than "filed"):

Our Annual Report on Form 10-K for the fiscal year ended December 31, 2010, as filed on March 7, 2011;

Current Reports on Form 8-K filed on January 14, 2011, and February 1, 2011; and

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The description of our Common Stock contained in our Registration Statement on Form 8-A, dated March 5, 1998, which registers our Common Stock under Section 12 of the Exchange Act, together with any amendments or reports filed with the SEC for the purpose of updating the description.

You may obtain a copy of these filings at no cost by writing to us at Heritage Commerce Corp, 150 Almaden Boulevard, San Jose, California 95113, Attention: Corporate Secretary or by telephone request to our Corporate Secretary at (408) 947-6900.

**WHERE YOU CAN FIND MORE INFORMATION**

We file annual, quarterly, and current reports, proxy statements and other information with the Securities and Exchange Commission ("SEC"). Our SEC filings are available to the public on the Internet at the SEC's website at [www.sec.gov](http://www.sec.gov) and on our website [www.heritagecommercecorp.com](http://www.heritagecommercecorp.com) (as soon as practicable after we electronically file such materials with, or furnish them to, the SEC). Except for those SEC filings incorporated by reference in this prospectus, none of the information contained on, or that may be accessed through, our website is a prospectus or constitutes part of, or is otherwise incorporated into, this prospectus.

You may also read and copy any document we file with the SEC at its public reference facilities at 100 F Street N.E., Washington, D.C. 20549. You can also obtain copies of the documents upon the payment of a duplicating fee to the SEC. Please call the SEC at 1-800-SEC-0330 for further information on the operation of the public reference facilities.

This prospectus omits some information contained in the registration statement in accordance with SEC rules and regulations. You should review the information and exhibits included in the registration statement for further information about us and the securities we are offering. Statements in this prospectus concerning any document we filed as an exhibit to the registration statement or that we otherwise filed with the SEC are not intended to be comprehensive and are qualified by reference to these filings. You should review the complete document to evaluate these statements.

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**PROSPECTUS SUMMARY**

*This summary highlights selected information contained elsewhere or incorporated by reference in this prospectus and may not contain all the information that you need to consider in making your investment decision. You should carefully read this entire prospectus, as well as the information to which we refer you and the information incorporated by reference herein, before deciding whether to invest in our Securities. You should pay special attention to the "Risk Factors" section of this prospectus to determine whether an investment in the Securities is appropriate for you.*

**About Heritage Commerce Corp**

Heritage Commerce Corp, a California corporation organized in 1997, is a bank holding company registered under the Bank Holding Company Act of 1956, as amended. We provide a wide range of banking services through Heritage Bank of Commerce, our wholly-owned subsidiary and our principal asset. Heritage Bank of Commerce is a California state-chartered bank headquartered in San Jose, California and has been conducting business since 1994.

Heritage Bank of Commerce is a multi-community independent bank that offers a full range of commercial banking services to small and medium-sized businesses and their owners, managers and employees. We operate through 10 full service branch offices located entirely in the southern and eastern regions of the general San Francisco Bay Area of California in the counties of Santa Clara, Alameda, and Contra Costa. Our market includes the headquarters of a number of technology-based companies in the region commonly known as "Silicon Valley."

Our lending activities are diversified and include commercial, real estate, construction and land development, consumer and SBA guaranteed loans. We generally lend in markets where we have a physical presence through our branch offices and SBA loan production offices. We attract deposits throughout our market area with a customer-oriented product mix, competitive pricing, and convenient locations. We offer a wide range of deposit products for business banking and retail markets. We offer a multitude of other products and services to complement our lending and deposit services.

As a bank holding company, we are subject to the supervision of the Board of Governors of the Federal Reserve System (the "Federal Reserve"). We are required to file with the Federal Reserve reports and other information regarding our business operations and the business operations of our subsidiaries. As a California chartered bank, Heritage Bank of Commerce is subject to primary supervision, periodic examination, and regulation by the California Department of Financial Institutions ("DFI"), and by the Federal Reserve, as its primary federal regulator.

Our principal executive office is located at 150 Almaden Boulevard, San Jose, California 95113, telephone number: (408) 947-6900.

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**The Offering**

|   |   |
|---|---|
| <b>Maximum number of shares of Common Stock offered by the selling securityholders (in the case of the Series C Preferred Stock subject to anti-dilution adjustments)</b> | 14,398,992 shares of Common Stock issued upon conversion of the Series B Preferred Stock, and 5,601,000 shares of Common Stock underlying the 21,004 outstanding shares of Series C Preferred Stock.  |
| <b>Maximum number of shares of Series C Preferred Stock offered by the selling securityholders (subject to anti-dilution adjustments)</b>                                 | 21,004 shares of Series C Preferred Stock issued by us to two of the selling securityholders on June 21, 2010.  |
| <b>Convertibility of Series C Preferred Stock into our Common Stock</b>   | Shares of Series C Preferred Stock will automatically convert into our Common Stock on the date of the transfer of the Series C Preferred Stock to a transferee unaffiliated with the holder in a widely dispersed offering. The term "widely dispersed offering" means a (i) widespread public distribution, including pursuant to a registration statement filed with and declared effective by the SEC or Rule 144 under the Securities Act, (ii) a transfer in which no transferee (or group of associated transferees) after giving effect to the transfer, would own more than 2% of any class of voting securities of the Company or (iii) a transfer to a transferee that controls or is acquiring control of more than 50% of the voting securities. |
| <b>Use of Proceeds</b>  | All Securities sold pursuant to this prospectus will be sold by the selling securityholders. We will not receive any of the proceeds from such sales.   |
| <b>Risk Factors</b>   | An investment in our Securities is subject to risks. Please refer to the information contained under the caption "Risk Factors" and other information included or incorporated by reference in this prospectus for a discussion of factors you should carefully consider before investing in our Securities.  |
| <b>NASDAQ Global Select Market Symbol</b>   | "HTBK" Common Stock.<br>The Series C Preferred Stock is not listed, and the Company does not intend to list the Series C Preferred Stock on any market.   |

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**RISK FACTORS**

*Our business, financial condition and results of operations are subject to various risks, including those discussed below, and those set forth in Item 1A, "Risk Factors," of our Annual Report on Form 10-K for the year ended December 31, 2010, which is incorporated herein by reference, which may affect the value of the Securities. Before making a decision to invest in the Securities, you should carefully consider the risks and uncertainties described below and the risks incorporated by reference in this prospectus, together with all of the other information included or incorporated by reference in this prospectus.*

**Risks Relating to our Securities**

***Our participation in the U.S. Treasury's Capital Purchase Program may pose certain risks to holders of our securities.***

The Company sold to the U.S. Treasury 40,000 shares of Series A Fixed Rate Cumulative Perpetual Preferred Stock, no par value ("Series A Preferred Stock"), and a warrant to purchase 462,963 (which number of shares is not subject to increase as a result of our issuance of the Series B Preferred Stock and the Series C Preferred Stock) shares of the Company's Common Stock. Although the Company believes that its participation in the U.S. Treasury's Capital Purchase Program ("Capital Purchase Program") was in the best interests of its shareholders in that it enhanced our capital, it may pose certain risks to the holders of our Securities such as the following:

The warrant, if exercised, may be significantly dilutive to current common stockholders.

The warrant is immediately exercisable, thus the U.S. Treasury may at any time become a significant holder of the Company's Common Stock and possess significant voting power.

Although the Series A Preferred Stock issued to the U.S. Treasury is non-voting, the terms of the Capital Purchase Program stipulate that the U.S. Treasury may vote its senior equity in matters deemed by the U.S. Treasury to have an impact on its holdings.

Under the terms of the Capital Purchase Program, the Company must seek the approval of the U.S. Treasury for any increases in dividends paid to holders of our Common Stock as well as any repurchases of our Common Stock.

The U.S. Treasury may at any time change the terms of our participation in the Capital Purchase Program.

We have suspended payment on a total of six quarterly dividend payments on the Series A Preferred Stock, and, as a result, the U.S. Treasury will have the right to appoint two directors to our board of directors. Effective during the first quarter of 2011, and as of the date of this prospectus, the Company has not been advised whether the U.S. Treasury will exercise its rights to elect two members to the board of directors and, in the meantime, the U.S. Treasury has requested, and the Company has agreed to permit, an observer employed by the U.S. Treasury to attend meetings of the Company's board of directors.

We are unable to pay any dividends on our Common Stock unless we are current with our dividend payments on the Series A Preferred Stock.

Executive compensation rules for Capital Purchase Program participants may restrict our ability to hire or retain qualified senior executives officers and other key employees.

***Our securities are not an insured deposit.***

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Our securities are not bank deposits and, therefore, are not insured against loss by the Federal Deposit Insurance Corporation (FDIC), any other deposit insurance fund or by any other public or private entity. Investment in our securities is inherently risky for the reasons described in this section and

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elsewhere in this prospectus and is subject to the same market forces that affect the price of securities in any company. As a result, if you acquire our securities, you may lose some or all of your investment.

***Federal and state law may limit the ability of another party to acquire us, which could cause the price of our securities to decline.***

Federal law prohibits a person or group of persons "acting in concert" from acquiring "control" of a bank holding company unless the Federal Reserve has been given 60 days prior written notice of such proposed acquisition and within that time period the Federal Reserve has not issued a notice disapproving the proposed acquisition or extending for up to another 30 days the period during which such a disapproval may be issued. An acquisition may be made prior to the expiration of the disapproval period if the Federal Reserve issues written notice of its intent not to disapprove the action. Under a rebuttable presumption established by the Federal Reserve, the acquisition of 10% or more of a class of voting stock of a bank or bank holding company with a class of securities registered under Section 12 of the Securities Exchange Act would, under the circumstances set forth in the presumption, constitute the acquisition of control. In addition, any "company" would be required to obtain the approval of the Federal Reserve under the Bank Holding Company Act of 1956, as amended, before acquiring 25% (5% in the case of an acquiror that is, or is deemed to be, a bank holding company) or more of any class of voting stock, or such lesser number of shares as may constitute control.

Under the California Financial Code, no person shall, directly or indirectly, acquire control of a California state bank or its holding company unless the DFI has approved such acquisition of control. A person would be deemed to have acquired control of Heritage Bank of Commerce if such person, directly or indirectly, has the power (i) to vote 25% or more of the voting power of Heritage Bank of Commerce or (ii) to direct or cause the direction of the management and policies of Heritage Bank of Commerce. For purposes of this law, a person who directly or indirectly owns or controls 10% or more of our outstanding Common Stock would be presumed to control Heritage Bank of Commerce.

These provisions of federal and state law may prevent a merger or acquisition that would be attractive to shareholders and could limit the price investors would be willing to pay in the future for our securities.

***We may raise additional capital, which could have a dilutive effect on the existing holders of our securities and adversely affect the market price of our securities.***

We are not restricted from issuing additional shares of Common Stock or securities that are convertible into or exchangeable for, or represent the right to receive shares of Common Stock. We frequently evaluate opportunities to access the capital markets taking into account our regulatory capital ratios, financial condition and other relevant considerations and, subject to market conditions, we may take further capital actions. Such actions could include, among other things, the issuance of additional shares of Common Stock or other securities in public or private transactions in order to further increase our capital levels above the requirements for a "well capitalized" institution established by the federal bank regulatory agencies as well as other regulatory targets. These issuances could dilute ownership interests of investors and could dilute the per share book value of our Common Stock.

***Holders of our subordinated debt have rights that are senior to those of our common and preferred shareholders.***

We have supported our continued growth through four issuances of trust preferred securities from four separate special purpose trusts and related issuance of subordinated debt to these trusts. At December 31, 2010, we had outstanding subordinated debt totaling \$23.7 million. Payments of the principal and interest on the subordinated debt are fully and unconditionally guaranteed by us. Further, the accompanying subordinated debt we issued to the special purpose trusts are senior to our outstanding shares of Common Stock and preferred stock. As a result, we must make payments on the subordinated debt before any dividends can be paid on our preferred stock or Common Stock and, in the event of our

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bankruptcy, dissolution or liquidation, the holders of the subordinated debt must be satisfied before any distributions can be made on our preferred stock or Common Stock. We have the right to defer interest payments on our subordinated debt (and the related trust preferred securities) for up to five years, during which time no cash dividends may be paid on our preferred stock or Common Stock. In November 2009, we exercised our right to defer the payment of interest on the subordinated debt and related trust preferred securities.

***We are subject to a Written Agreement with the Federal Reserve Bank of San Francisco and the DFI that prohibits the payment of dividends without prior approval.***

On February 17, 2010, we entered into a Written Agreement with the Federal Reserve Bank of San Francisco and the DFI ("Written Agreement"). The Written Agreement restricts the payment of dividends on Common Stock and preferred stock, and any payments on our trust preferred securities and related subordinated debt, any reductions in capital or the purchase or redemption of stock without the prior consent of the Federal Reserve Bank of San Francisco and the Director of the Division of Banking Supervision and Regulation of the Federal Reserve. We do not know when the Company will receive regulatory approval to pay dividends in the future.

**Risks Relating to our Common Stock**

***The price of our Common Stock may fluctuate significantly, and this may make it difficult for you to resell shares of Common Stock owned by you at times or at prices you find attractive.***

The stock market and, in particular, the market for financial institution stocks, have experienced significant volatility. In some cases, the markets have produced downward pressure on stock prices for certain issuers without regard to those issuers' underlying financial strength. As a result, the trading volume in our Common Stock may fluctuate more than usual and cause significant price variations to occur. This may make it difficult for you to resell shares of Common Stock owned by you at times or at prices you find attractive.

The trading price of the shares of our Common Stock will depend on many factors, which may change from time to time and which may be beyond our control, including, without limitation, our financial condition, performance, creditworthiness and prospects, future sales or offerings of our equity or equity related securities, and other factors identified above under "Cautionary Note Regarding Forward-Looking Statements," "Risk Factors" and below. These broad market fluctuations have adversely affected and may continue to adversely affect the market price of our Common Stock. Among the factors that could affect our stock price are:

actual or anticipated quarterly fluctuations in our operating results and financial condition;

changes in financial estimates or publication of research reports and recommendations by financial analysts or actions taken by rating agencies with respect to our Common Stock or those of other financial institutions;

failure to meet analysts' revenue or earnings estimates;

speculation in the press or investment community generally or relating to our reputation, our operations, our market area, our competitors or the financial services industry in general;

strategic actions by us or our competitors, such as acquisitions, restructurings, dispositions or financings;

actions by our current shareholders, including sales of Common Stock by existing shareholders and/or directors and executive officers;

trends in our nonperforming assets;



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the costs and effectiveness of our efforts to reduce our classified assets;

fluctuations in the stock price and operating results of our competitors;

future sales of our equity, equity-related or debt securities;

proposed or adopted regulatory changes or developments;

anticipated or pending investigations, proceedings, or litigation that involve or affect us;

trading activities in our Common Stock, including short-selling;

domestic and international economic factors unrelated to our performance; and

general market conditions and, in particular, developments related to market conditions for the financial services industry.

Our Common Stock is listed for trading on the NASDAQ Global Select Market under the symbol "HTBK". The trading volume has historically been significantly less than that of larger financial services companies. Stock price volatility may make it more difficult for you to sell your Common Stock when you want and at prices you find attractive.

A public trading market having the desired characteristics of depth, liquidity and orderliness depends on the presence in the marketplace of willing buyers and sellers of our Common Stock at any given time. This presence depends on the individual decisions of investors and general economic and market conditions over which we have no control. Given the relatively low trading volume of our Common Stock, significant sales of our Common Stock in the public market, or the perception that those sales may occur, could cause the trading price of our Common Stock to decline or to be lower than it otherwise might be in the absence of those sales or perceptions.

***Our outstanding preferred stock impacts net income allocable to our common shareholders and earnings per common share, and conversion of our Series C Preferred Stock or exercise of the warrant issued to the U.S. Treasury will be dilutive to holders of our Common Stock.***

The dividends declared and the accretion on our outstanding preferred stock reduce the net income available to common shareholders and our earnings per common share. Our preferred stock will also receive preferential treatment in the event of our liquidation, dissolution or winding up.

The ownership interest of the existing holders of our Common Stock will be diluted to the extent the warrant issued to the U.S. Treasury is exercised. The shares of Common Stock underlying the warrant represent approximately 2% of the shares of our Common Stock outstanding as of March 1, 2011. Although the U.S. Treasury has agreed to not vote any of the Common Shares it receives upon exercise of the warrant, a transferee of any portion of the warrant or of any common shares acquired upon exercise of the warrant is not bound by this restriction. The terms of the warrant include an anti-dilution adjustment which provides that, if we issue common shares or securities convertible or exercisable into, or exchangeable for, common shares at a price that is less than 90% of the market price of such shares on the last trading day preceding the date of the agreement to sell such shares, the number of common shares to be issued would increase and the per share price of common shares to be purchased pursuant to the warrant would decrease.

Additionally, we have 21,004 shares of Series C Preferred Stock outstanding. The ownership interest of our existing holders of Common Stock will be diluted to the extent the Series C Preferred Stock is automatically converted into Common Stock. The Series C Preferred Stock is convertible into an aggregate of 5,601,000 shares of our Common Stock upon a transfer of the Series C Preferred Stock to a transferee not affiliated with the holder in a widely dispersed offering. The shares of Common Stock underlying the Series C Preferred Stock represent approximately 21% of the shares of our common stock outstanding on March 1, 2011.



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***The issuance of additional shares of preferred stock could adversely affect holders of Common Stock, which may negatively impact your investment in our securities.***

Our board of directors is authorized to issue additional classes or series of preferred stock without any action on the part of the shareholders, except in certain circumstances. Our board of directors also has the power, without shareholder approval except in certain circumstances, to set the terms of any such classes or series of preferred stock that may be issued, including voting rights, dividend rights and preferences over the Common Stock with respect to dividends or upon the liquidation, dissolution or winding up of our business and other terms. If we issue preferred stock in the future that has a preference over the Common Stock with respect to the payment of dividends or upon liquidation, dissolution or winding up, or if we issue preferred stock with voting rights that dilute the voting power of the Common Stock, then the rights of holders of the Common Stock or the market price of the Common Stock could be adversely affected. A decline in the market price of our Common Stock may negatively impact the price for the Series C Preferred Stock.

**Risks Related to the Series C Preferred Stock**

***The Series C Preferred Stock will convert into Common Stock only in limited circumstances.***

Shares of Series C Preferred Stock will convert automatically into our Common Stock only following the transfer of the Series C Preferred Stock to a transferee unaffiliated with the holder in a widely dispersed offering. The term "widely dispersed offering" means a (i) widespread public distribution, including pursuant to a registration statement filed with and declared effective by the SEC or Rule 144 under the Securities Act, (ii) a transfer in which no transferee (or group of associated transferees) after giving effect to the transfer, would own more than 2% of any class of voting securities of the Company or (iii) a transfer to a transferee that controls or is acquiring control of more than 50% of the voting securities.

***You may not receive dividends on the Series C Preferred Stock.***

Dividends are payable on the Series C Preferred Stock on an as converted basis if and only to the extent dividends are paid on our Common Stock. We have suspended payment of dividends on our Common Stock and Series A Preferred Stock and are currently prohibited from paying dividends on our Common Stock and the Series A Preferred Stock, and Series C Preferred Stock because of our Written Agreement with our regulators. We may not pay dividends on the shares of Series C Preferred Stock absent the prior written approval of the Federal Reserve Bank of San Francisco and the Director of the Division of Banking Supervision and Regulation of the Federal Reserve and only if we are current on the payment of our interest on our outstanding trust preferred and related subordinated debt and the payment of dividends on our Series A Preferred Stock.

***The Series C Preferred Stock is equity and is subordinate to our existing and future indebtedness.***

Our Series C Preferred Stock is an equity interest and does not constitute indebtedness. As such, our Series C Preferred Stock will rank junior to all indebtedness, including our subordinated debt issued in connection with our trust preferred securities, and other non-equity claims with respect to assets available to satisfy claims, including in a liquidation.

***The Series C Preferred Stock is a new series of securities and an active trading market may not develop for it.***

There is no public market for the Series C Preferred Stock, and we have no plans to list the Series C Preferred Stock on any securities exchange. There is no guarantee that a secondary trading market will develop or, if such a market does develop, that it would provide sufficient liquidity to allow you to trade

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and sell shares of Series C Preferred Stock easily. The liquidity of any market for the Series C Preferred Stock will depend on a number of factors, including but not limited to:

the number of shares of Series C Preferred Stock, if any, that investors purchase in this offering;

the number of shares of Series C Preferred Stock that the selling securityholders elect to sell in this offering;

the number of holders of the Series C Preferred Stock;

our performance;

the market for similar securities; and

the market price of our Common Stock.

***The market price of the Series C Preferred Stock will be directly affected by the market price of our Common Stock, which may be volatile, and this may make it difficult for you to resell Series C Preferred Stock at times or at prices you find attractive.***

To the extent that a secondary market for the Series C Preferred Stock develops, we believe that the market price of the Series C Preferred Stock will be significantly affected by the market price of our Common Stock. We cannot predict how our Common Stock will trade in the future as many factors could affect the market price of our Common Stock.

***The Series C Preferred Stock has limited voting rights.***

Holders of the Series C Preferred Stock will not have any voting rights, including the right to elect any directors, other than limited voting rights with respect to matters significantly and adversely affecting the rights and privileges of the Series C Preferred Stock.

***Holders of shares of Series C Preferred Stock will have no rights as holders of our Common Stock until they acquire the Common Stock upon conversion of the Series C Preferred Stock.***

Until holders of the Series C Preferred Stock acquire Common Stock upon conversion of or as a dividend on the Series C Preferred Stock, such holders will have no rights with respect to our Common Stock, including voting rights (except as described under "Description of Capital Stock Series C Preferred Stock Voting Rights" and as required by applicable California law) and rights to receive any dividends or other distributions on our Common Stock. Upon conversion of, or receipt of Common Stock as a dividend on, the Series C Preferred Stock, holders of the Series C Preferred Stock will be entitled to exercise the rights of a holder of Common Stock only as to matters for which the record date occurs on or after the conversion date.

Table of Contents**PRICE RANGE OF COMMON STOCK**

Our Common Stock is listed and traded on the NASDAQ Global Select Market under the symbol "HTBK." The following table sets forth, for the quarters shown, the range of high and low closing sales prices of our Common Stock on the NASDAQ Global Select Market and the cash dividends declared on the Common Stock. As of March 1, 2011, we had 26,233,001 shares of Common Stock outstanding, held of record by approximately 700 shareholders.

| Quarter                              | Stock Price |         | Dividend<br>Per Share |
|--------------------------------------|-------------|---------|-----------------------|
|                                      | High        | Low     |                       |
| <b>Year ended December 31, 2010</b>  |             |         |                       |
| Fourth quarter                       | \$ 4.50     | \$ 3.49 |                       |
| Third quarter                        | \$ 3.77     | \$ 3.36 |                       |
| Second quarter                       | \$ 5.83     | \$ 3.55 |                       |
| First quarter                        | \$ 4.48     | \$ 3.40 |                       |
| <b>Year ended December 31, 2009:</b> |             |         |                       |
| Fourth quarter                       | \$ 4.64     | \$ 2.50 |                       |
| Third quarter                        | \$ 5.75     | \$ 2.99 |                       |
| Second quarter                       | \$ 8.66     | \$ 3.61 |                       |
| First quarter                        | \$ 11.75    | \$ 3.75 | \$ 0.02               |

**DIVIDEND POLICY**

Under the Written Agreement we are required to obtain the prior approval of the Federal Reserve Bank of San Francisco and the Director of the Division of Banking Supervision and Regulation of the Federal Reserve to make any interest payments on our outstanding trust preferred securities and related subordinate debt, or to pay any dividends on our Common Stock or preferred stock.

The amount of future dividends will depend upon our earnings, financial condition, capital requirements and other factors, and will be determined by our board of directors on a quarterly basis. It is Federal Reserve policy that bank holding companies generally pay dividends on Common Stock only out of income available over the past year, and only if prospective earnings retention is consistent with the organization's expected future needs and financial condition. It is also Federal Reserve policy that bank holding companies not maintain dividend levels that undermine the holding company's ability to be a source of strength to its banking subsidiaries. Additionally, in consideration of the current financial and economic environment, the Federal Reserve has indicated that bank holding companies should carefully review their dividend policy and has discouraged payment ratios that are at maximum allowable levels unless both asset quality and capital are very strong. Under the federal Prompt Corrective Action regulations, the Federal Reserve or the FDIC may prohibit a bank holding company from paying any dividends if the holding company's bank subsidiary is classified as undercapitalized.

As a holding company, our ability to pay cash dividends is affected by the ability of our bank subsidiary, Heritage Bank of Commerce, to pay cash dividends. The ability of Heritage Bank of Commerce (and our ability) to pay cash dividends in the future and the amount of any such cash dividends is and could be in the future further influenced by bank regulatory requirements and approvals and capital guidelines. Our ability to pay cash dividends is further subject to restrictions set forth in the California General Corporation Law (the "CGCL"). The CGCL provides that a corporation may make a distribution to its shareholders if the corporation's retained earnings equal at least the amount of the proposed distribution. The CGCL further provides that, in the event sufficient retained earnings are not available for the proposed distribution, a corporation may nevertheless make a distribution to its shareholders if, after giving effect to the distribution, it meets two conditions, which generally stated are as follows: (i) the corporation's assets must equal at least 125% of its liabilities and (ii) the corporation's current assets must

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equal at least its current liabilities or, if the average of the corporation's earnings before taxes on income and before interest expense for the two preceding fiscal years was less than the average of the corporation's interest expense for those fiscal years, then the corporation's current assets must equal at least 125% of its current liabilities.

Funds for payment of any cash dividends by the Company would be obtained from its investments as well as dividends from Heritage Bank of Commerce. As a California banking corporation, the ability of Heritage Bank of Commerce to pay cash dividends is subject to restrictions set forth in the California Financial Code (the "Financial Code"). The Financial Code provides that a bank may not make a cash distribution to its shareholders in excess of the lesser of (i) the bank's retained earnings or (ii) the bank's net income for its last three fiscal years, less the amount of any distributions made by the bank or by any majority-owned subsidiary of the bank to the shareholders of the bank during such period. However, a bank may, with the approval of the DFI, make a distribution to its shareholders in an amount not exceeding the greater of (i) its retained earnings, (ii) its net income for its last fiscal year or (iii) its net income for its current fiscal year. In the event that the DFI determines that the shareholders' equity of a bank is inadequate or that the making of a distribution by the bank would be unsafe or unsound, the Commissioner may order the bank to refrain from making a proposed distribution.

Under the terms of the Capital Purchase Program, for so long as any preferred stock issued under the Capital Purchase Program remains outstanding, we are prohibited from increasing quarterly dividends on our Common Stock in excess of \$0.08 per share, and from making certain repurchases of equity securities, including our Common Stock, without the U.S. Treasury's consent until the third anniversary of the U.S. Treasury investment or until the U.S. Treasury has transferred all of the Series A Preferred Stock it purchased to third parties. As long as the Series A Preferred Stock is outstanding, dividend payments and repurchases or redemptions relating to certain equity securities, including our Common Stock and the Series C Preferred Stock, are also prohibited until all accrued and unpaid dividends are paid on such preferred stock, subject to certain limited exceptions. On November 6, 2009, we suspended dividend payments on our Series A Preferred Stock. So long as dividends on the Series A Preferred Stock remain suspended, we may not, among other things and with limited exceptions, pay cash dividends on or repurchase our Common Stock or preferred stock.

We have supported our growth through the issuance of trust preferred securities from special purpose trusts and accompanying sales of subordinated debt to these trusts. The subordinated debt that we issued to the trusts is senior to our shares of Common Stock, Series A Preferred Stock and Series C Preferred Stock. As a result, we must make payments on the subordinated debt before any dividends can be paid on our Common Stock, Series A Preferred Stock and Series C Preferred Stock. Under the terms of the subordinated debt, we may defer interest payments for up to five years. On November 6, 2009, we exercised our right to defer regularly scheduled interest payments on our outstanding \$23.7 million of subordinated debt relating to our trust preferred securities. So long as interest payments remain deferred, we may not pay cash dividends on or repurchase our Common Stock or preferred stock.

At such time as we become current with the dividends payable on the Series A Preferred Stock and interest payments on our trust preferred securities and related subordinated debt, the decision whether to pay dividends will be made by our board of directors in light of conditions then existing, including factors such as our results of operations, financial condition, business conditions, regulatory capital requirements and covenants under any applicable contractual arrangements, including agreements with regulatory authorities.

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**SUMMARY OF THE UNDERLYING TRANSACTIONS**

We entered into a securities purchase agreement, dated June 18, 2010, with various investors, pursuant to which the investors invested an aggregate of \$75 million in cash in us through direct purchases of newly issued shares of Series B Preferred Stock and Series C Preferred Stock. On June 21, 2010, we issued to the investors the following securities:

an aggregate of 53,996 shares of Series B Preferred Stock, each of which would automatically convert into an aggregate of 14,398,992 shares of our Common Stock based on the initial conversion price of \$3.75, upon receipt of shareholder approval of the issuance of Common Stock upon the conversion; and

to two investors, an aggregate of 21,004 shares of Series C Preferred Stock, each of which will automatically convert into an aggregate of 5,601,000 shares of our Common Stock based on the initial conversion price of \$3.75, upon receipt of the shareholder approval of the issuance of Common Stock upon the conversion, and the subsequent transfer of the Series C Preferred Stock to third parties not affiliated with the holder in a widely dispersed offering.

At the Company's Special Meeting of Shareholders held on September 15, 2010, the Company's shareholders approved the issuance of Common Stock upon the conversion of the Series B Preferred Stock and upon the conversion of the Series C Preferred Stock as required by The NASDAQ Stock Market and California corporate law. As a result, on September 16, 2010, the Series B Preferred Stock was converted into 14,398,992 shares of Common Stock of the Company and the shares of Series B Preferred Stock ceased to be outstanding. The Series C Preferred Stock remains outstanding until it has been converted into Common Stock in accordance with its terms.

**USE OF PROCEEDS**

All Securities sold pursuant to this prospectus will be offered and sold by the selling securityholders. We will not receive any of the proceeds from such sales.

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**SELLING SECURITYHOLDERS**

When we refer to the "selling securityholders" in this prospectus we mean the persons listed in the table below. The selling securityholders may from time to time offer and sell any or all of the Securities set forth below pursuant to this prospectus.

The selling securityholders initially acquired the Securities covered by this prospectus on June 21, 2010, at the closing of the June 2010 Private Placement described above under "Summary of the Underlying Transactions." The selling securityholders may, at any time and from time to time, offer and sell pursuant to this prospectus any or all of the Securities in any type of transaction as more fully described in "Plan of Distribution."

Except as set forth herein and other than with respect to the acquisition of the Securities from us, none of the selling securityholders has, or within the past three years has had, any position, office, or other material relationship with us.

***Securities Covered by this Prospectus Held by Selling Securityholders***

The following table sets forth a list of the selling securityholders and their ownership of Securities to be offered pursuant to this prospectus. All percentages are based on the 31,834,001 shares of Common Stock that will be outstanding assuming the full conversion of the Series C Preferred Stock (before any adjustment in the conversion ratios).

We do not know when or in what amounts the selling securityholders may offer Securities for sale. It is possible that the selling securityholders will not sell any or all of the Securities offered under this prospectus. Because the selling securityholders may offer all or some of the Securities pursuant to this prospectus, and because we have been advised that there are currently no agreements, arrangements or understandings with respect to the sale of any such Securities, we cannot estimate the number of Securities that will be held by the selling securityholders after completion of the offering. For purposes of the table below, we have assumed that selling securityholders would sell all of the Securities held by them covered by this prospectus and, therefore, would hold no Securities following the offering and hold zero percentage of the Securities following the offering, other than shares of Common Stock that certain selling securityholders informed us they acquired independently of the June 2010 Private Placement and are not including for resale in this offering. Except as stated in the footnotes, each Selling Securityholder has requested that their full allotment of Securities be registered for resale in this offering.

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The information set forth below is based on information provided by the selling securityholders.

| Name of Selling Securityholder                | Shares<br>of<br>Series C<br>Preferred<br>Stock<br>owned<br>pre-<br>Offering | Shares of<br>Common<br>Stock<br>beneficially<br>owned pre-<br>Offering(1)(2) | Maximum<br>shares of<br>Series C<br>Preferred<br>Stock to<br>be<br>offered | Maximum<br>shares of<br>Common<br>Stock to be<br>offered(2) | Shares<br>of<br>Series C<br>Preferred<br>Stock<br>owned<br>Post<br>Offering(3) | Shares of<br>Common<br>Stock<br>owned<br>Post<br>Offering(3) | Percentage<br>of<br>Outstanding<br>Common<br>Stock<br>owned<br>After<br>Offering(4) |
|---|---|--|--|---|--|--|---|
| Consector Partners LP                         |   | 491,033  |  | 491,033   |  |  | 0%  |
| John Hancock Regional Bank Fund               |   | 712,266  |  | 712,266   |  |  | 0%  |
| John Hancock Bank and Thrift Opportunity Fund |   | 387,733  |  | 387,733   |  |  | 0%  |
| JCSD Partners L.P.                            |   | 450,000  |  | 450,000   |  |  | 0%  |
| Adakin Capital, LLC                           |   | 450,000  |  | 450,000   |  |  | 0%  |
| J.S. Kelly, LLC                               |   | 450,000  |  | 450,000   |  |  | 0%  |
| Priority Insight Partners Master Fund L.P.    |   | 259,473  |  | 259,473   |  |  | 0%  |
| FPA Hawkeye Fund(5)                           |   | 468,033  |  | 468,033   |  |  | 0%  |
| FPA Hawkeye-7 Fund(5)                         |   | 601,966  |  | 601,966   |  |  | 0%  |
| MGS Partners, LLC                             |   | 270,000  |  | 270,000   |  |  | 0%  |
| Basswood Opportunity Partners, LP             |   | 608,119  |  | 608,119   |  |  | 0%  |
| Basswood Opportunity Fund, Inc.               |   | 232,380  |  | 232,380   |  |  | 0%  |
| Banc Fund VI L.P.                             |   | 418,834(6)   |  | 289,066   |  | 129,768  | .41%  |
| Banc Fund VII L.P.                            |   | 473,233(6)   |  | 388,533   |  | 84,700   | .27%  |
| Banc Fund VIII L.P.                           |   | 372,400  |  | 372,400   |  |  | 0%  |
| Castle Creek Capital Partners IV, LP(7)       | 12,960  | 4,740,000(8)   | 12,960   | 4,740,000   |  |  | 0%  |
| SOAM Capital Partners, L.P.(9)                |   | 72,700   |  | 72,700  |  |  | 0%  |
| Malta MLC Offshore, Ltd.(9)                   |   | 24,592   |  | 24,592  |  |  | 0%  |
| Malta MLC Fund, L.P.(9)                       |   | 98,262   |  | 98,262  |  |  | 0%  |
| Malta Offshore, Ltd.(9)                       |   | 77,470   |  | 77,470  |  |  | 0%  |
| Malta Hedge Fund II, L.P.(9)                  |   | 218,138  |  | 218,138   |  |  | 0%  |
| Malta Hedge Fund, L.P.(9)                     |   | 38,507   |  | 38,507  |  |  | 0%  |
| Malta Partners, L.P.(9)                       |   | 9,713  |  | 9,713   |  |  | 0%  |
| MFP Partners, L.P.                            |   | 1,280,000  |  | 1,280,000   |  |  | 0%  |
| Patriot Financial Partners, L.P.(10)          | 6,859   | 4,042,000(11)  | 6,859  | 4,042,000   |  |  | 0%  |
| Patriot Financial Partners Parallel L.P.(10)  | 1,185   | 698,000(11)  | 1,185  | 698,000   |  |  | 0%  |

- (1) Includes shares of Common Stock owned as of March 1, 2011.
- (2) Assumes complete conversion of all Series C Preferred Stock.
- (3) Assumes that each selling securityholder will sell all shares offered by it under this prospectus.
- (4) This number represents the percentage of Common Stock to be owned by the selling securityholder after completion of the offering based on the number of shares of Common Stock outstanding on as of March 1, 2011 (26,233,001 shares), as adjusted to reflect the assumption that 21,004 shares of Series C Preferred Stock are converted into 5,601,000 shares of Common Stock based on an initial conversion price of \$3.75; so that there will be an aggregate of 31,834,001 shares of Common Stock outstanding.
- (5) The securityholder has represented to us that it is an affiliate of FPA Fund Distributors, Inc., a broker-dealer; the securityholder acquired the Securities as investments; purchased the Securities to be sold in the ordinary course of business, and at the time of the purchase, had no agreements or understandings, directly or indirectly, with any person to distribute the Securities.
- (6) Includes the 129,768 and 84,700 shares of Common Stock otherwise owned by Banc Fund VI L.P. and Banc Fund VII L.P., respectively.
- (7) Pursuant to the Securities Purchase Agreement dated as of June 18, 2010, Castle Creek Capital Partners, IV, LP ("Castle Creek") has the right to appoint one member or one observer to the board of directors of each of the Company and Heritage Bank of Commerce. On August 26, 2010, the Company and Heritage Bank of Commerce appointed John M. Eggemeyer to their respective board of directors. Mr. Eggemeyer is a managing

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principal of Castle Creek Capital IV LLC which is the sole general partner of Castle Creek and may be deemed to have voting and/or investment control of the Securities held by Castle Creek. Mr. Eggemeyer disclaims beneficial ownership of the shares, except to the extent of his pecuniary interest therein. Castle Creek has represented to us that it is an affiliate of Castle Creek Financial LLC, a broker-dealer; Castle Creek acquired the Securities as investments; purchased the Securities to be sold in the ordinary course of business, and at the time of the purchase, had no agreements or understandings, directly or indirectly, with any person to distribute the Securities.

- (8) The shares of Series C Preferred Stock owned by Castle Creek can only be converted to 3,456,000 shares of Common Stock in the hands of transferees thereof.
- (9) Each of these funds is managed by Sandler O'Neill Asset Management, LLC or one of its affiliates. Terry Maltese is the managing member of Sandler O'Neill Asset Management, LLC and as such has the power to vote and dispose the shares held by each of these funds. Mr. Maltese disclaims beneficial ownership over the shares held by these funds except to the extent of his pecuniary interest therein.
- (10) Patriot Financial Partners, GP, L.P. ("Patriot GP") is a general partner of each Patriot Financial Partners, L.P. and Patriot Financial Partners Parallel, L.P. (together, the "Funds") and Patriot Financial Partners, GP, LLC ("Patriot LLC") is a general partner of Patriot GP. In addition, each of W. Kirk Wycoff, Ira M. Lubert and James J. Lynch are general partners of the Funds and Patriot GP and members of Patriot LLC. Accordingly,

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Securities owned by the Funds may be regarded as being beneficially owned by Patriot GP, Patriot LLC and each of W. Kirk Wycoff, Ira M. Lubert and James J. Lynch. Mr. Wycoff, Mr. Lubert and Mr. Lynch each disclaim beneficial ownership of the Securities owned by the Funds, except to the extent of their respective pecuniary interest therein. Pursuant to the Securities Purchase Agreement dated as of June 18, 2010, the Funds, together, have the right to appoint one member or one observer to the board of directors of each of the Company and Heritage Bank of Commerce. On August 26, 2010 the Company and Heritage Bank of Commerce appointed Mr. Wycoff to their respective board of directors.

(11)

The shares of Series C Preferred Stock owned by Patriot Financial Partners, L.P. and Patriot Financial Partners Parallel L.P. can only be converted to 1,829,000 shares and 316,000 shares of Common Stock in the hands of transferees thereof.

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**DESCRIPTION OF CAPITAL STOCK**

**Common Stock**

*General*

We are authorized to issue up to 60,000,000 shares of Common Stock, no par value. As of March 1, 2011, there were 26,233,001 shares of Common Stock issued and outstanding held of record by approximately 700 shareholders. Our Common Stock is listed on the NASDAQ Global Select Market under the symbol "HTBK." Outstanding shares of our Common Stock are validly issued, fully paid and non-assessable.

Each share of our Common Stock has the same relative rights and is identical in all respects to each other share of our Common Stock. The Common Stock has no preemptive, conversion or redemption rights or sinking fund provisions.

*Voting Rights*

On any matter submitted to a vote of the shareholders, holders of Common Stock are entitled to one vote, in person or by proxy, for each share of Common Stock held of record in the shareholder's name on our books as of the record date. In connection with the election of directors, the shares may be voted cumulatively. Cumulative voting allows each shareholder to cast that number of votes equal to the number of shares owned by the shareholder, multiplied by the number of directors to be elected, and the shareholder may cumulate such votes for a single candidate or distribute such votes among as many candidates as the shareholder deems appropriate.

*Liquidation Rights*

The holders of our Common Stock and the holders of any class or series of stock entitled to participate with the holders of our Common Stock as to the distribution of assets in the event of any liquidation, dissolution or winding up of us, whether voluntary or involuntary, will become entitled to participate equally in the distribution of any of our assets remaining after we have paid, or provided for the payment of, all of our debts and liabilities and after we have paid, or set aside for payment, to the holders of any class of stock having preference over the Common Stock in the event of liquidation, dissolution or winding up, the full preferential amounts, if any, to which they are entitled.

*Dividends*

Holders of our Common Stock are entitled to receive dividends if, as and when declared by our board of directors out of any funds legally available for dividends. We may pay dividends on our Common Stock only if we have paid or provided for all of the deferred interest on our trust preferred securities and dividends on our outstanding preferred stock, for the then current period and, in the case of any cumulative preferred stock, all prior periods. The Written Agreement restricts the payment of dividends on Common Stock and preferred stock, and any payments on our trust preferred securities and related subordinated debt, without the prior consent of the Federal Reserve Bank of San Francisco and the Director of the Division of Banking Supervision and Regulation of the Federal Reserve. We do not know when the Company will receive regulatory approval to pay dividends in the future.

As a holding company, our ability to pay dividends is also affected by the ability of our bank subsidiary to pay dividends. The ability of our bank subsidiary, and our ability, to pay dividends in the future is, and could in the future be further, influenced by bank regulatory requirements and capital guidelines and other restrictions. See "Dividend Policy."

**Transfer Agent and Registrar**

The transfer agent for the Common Stock is Wells Fargo Shareholder Services.

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**Preferred Stock**

We are authorized to issue 10,000,000 shares of preferred stock, no par value per share. We have designated 40,000 shares of preferred stock as Series A Fixed Rate Cumulative Perpetual Preferred Stock, and 21,050 shares of preferred stock as Series C Convertible Perpetual Preferred Stock. Our amended and restated articles of incorporation, subject to limitations prescribed in such articles and subject to limitations prescribed by California law, authorize the board of directors, from time to time by resolution and without further shareholder action, to provide for the issuance of shares of preferred stock, in one or more series, and to fix the designation, powers, preferences and other rights of the shares and to fix the qualifications, limitations and restrictions thereof. As a result of its discretion with respect to the creation and issuance of preferred stock without shareholder approval, the board of directors could adversely affect the voting power of the holders of Common Stock and, by issuing shares of preferred stock with certain voting, conversion and/or redemption rights, could discourage any attempt to obtain control of us.

**Series A Preferred Stock**

We have designated 40,000 shares as the Series A Fixed Rate Cumulative Perpetual Preferred Stock, no par value, with a liquidation preference of \$1,000 per share, of which all are outstanding. On November 21, 2008, pursuant to the Capital Purchase Program, we issued to the U.S. Treasury 40,000 shares of the Series A Preferred Stock, for a total price of \$40 million. The holders of the Series A Preferred Stock have preferential dividend and liquidation rights over holders of our Common Stock. The Series A Preferred Stock pays cumulative dividends at a rate of 5% per year for the first five years and thereafter at a rate of 9% per year. The Series A Preferred Stock is non-voting, except in limited circumstances. Prior to November 21, 2011, unless we have redeemed all of the Series A Preferred Stock or the U.S. Treasury has transferred all of the Series A Preferred Stock to third parties, the consent of the U.S. Treasury will be required for us to, among other things, repurchase or otherwise acquire any of our shares of Common Stock or trust preferred securities, subject to certain limited exceptions. In addition, so long as any shares of our Series A Preferred Stock are outstanding, we may not repurchase or otherwise acquire any of our outstanding Common Stock unless we are current in our dividend payments on our outstanding Series A Preferred Stock. We may not redeem the Series A Preferred Stock without requisite regulatory approval.

***Voting Rights***

Except as indicated below or otherwise required by law, the holders of Series A Preferred Stock do not have any voting rights.

*Election of Two Directors upon Non-Payment of Dividends.* If the dividends on the Series A Preferred Stock have not been paid for an aggregate of six quarterly dividend periods or more (whether or not consecutive), the holders of Series A Preferred Stock, together with the holders of any outstanding parity stock with like voting rights, referred to as voting parity stock, voting as a single class, will be entitled to appoint two members to our board of directors, referred to as the preferred stock directors, at the next annual meeting (or at a special meeting called for the purpose of electing the preferred stock directors prior to the next annual meeting) and at each subsequent annual meeting until all accrued and unpaid dividends for all past dividend periods have been paid in full. Our bylaws provide that in the event such voting right is triggered, the authorized number of directors on our board of directors shall be increased by two members. The election of any preferred stock director is subject to the qualification that the election would not cause us to violate the corporate governance requirement of the NASDAQ Global Select Market (or any other exchange on which our securities may be listed) that listed companies must have a majority of independent directors.

On February 15, 2011, the Company suspended payment of dividends on the Series A Preferred Stock for the sixth consecutive quarter, and therefore, the U.S. Treasury has the right to appoint two members of

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the Company's board of directors. If the U.S. Treasury exercises its rights, these directors would serve on the Company's board of directors until such time as the Company has paid in full all dividends not previously paid. So long as payment of dividends on the Series A Preferred Stock remain suspended, we may not, among other things and with limited exceptions, pay cash dividends on or repurchase our Common Stock or preferred stock. Effective during the first quarter of 2011, and as of the date of this prospectus, the Company has not been advised whether the U.S. Treasury will exercise its rights to elect two members to the board of directors and, in the meantime, the U.S Treasury has requested, and the Company has agreed to permit, an observer employed by the U.S Treasury to attend meetings of the Company's board of directors.

Upon the termination of the right of the holders of Series A Preferred Stock and voting parity stock to vote for preferred stock directors, as described above, the preferred stock directors will immediately cease to be qualified as directors, their term of office shall terminate immediately and the number of our authorized directors will be reduced by the number of preferred stock directors that the holders of Series A Preferred Stock and voting parity stock had been entitled to elect. The holders of a majority of shares of Series A Preferred Stock and voting parity stock, voting as a class, may remove any preferred stock director, with or without cause, and the holders of a majority of the shares of Series A Preferred Stock and voting parity stock, voting as a class, may fill any vacancy created by the removal of a preferred stock director. If the office of a preferred stock director becomes vacant for any other reason, the remaining preferred stock director may choose a successor to fill such vacancy for the remainder of the unexpired term.

*Other Voting Rights.* So long as any shares of Series A Preferred Stock are outstanding, in addition to any other vote or written consent of shareholders required by law or by our articles of incorporation, the vote or written consent of the holders of at least 66<sup>2</sup>/<sub>3</sub>% of the shares of Series A Preferred Stock at the time outstanding, voting separately as a single class, given in person or by proxy, either in writing without a meeting or by vote at any meeting called for the purpose, shall be necessary for effecting or validating:

any amendment or alteration of the certificate of determination for the Series A Preferred Stock or our amended and restated articles of incorporation to authorize or create or increase the authorized amount of, or any issuance of, any shares of, or any securities convertible into or exchangeable or exercisable for shares of, any class or series of capital stock ranking senior to the Series A Preferred Stock with respect to the payment of dividends and/or distribution of assets on our liquidation, dissolution or winding up;

any amendment, alteration or repeal of any provision of the certificate of determination for the Series A Preferred Stock so as to adversely affect the rights, preferences, privileges or voting powers of the Series A Preferred Stock; or

any consummation of a binding share exchange or reclassification involving the Series A Preferred Stock or of a merger or consolidation by us with another entity, unless the shares of Series A Preferred Stock remain outstanding following any such transaction or, if we are not the surviving entity, such shares are converted into or exchanged for preference securities and such remaining outstanding shares of Series A Preferred Stock or preference securities have rights, preferences, privileges and voting powers that are not materially less favorable than the rights, preferences, privileges or voting powers of the Series A Preferred Stock, taken as a whole.

To the extent of the voting rights of the Series A Preferred Stock, each holder of Series A Preferred Stock will be entitled to one vote for each share of Series A Preferred Stock held.

The foregoing voting provisions will not apply if, at or prior to the time when the vote or consent would otherwise be required, all outstanding shares of Series A Preferred Stock have been redeemed or called for redemption upon proper notice and sufficient funds have been set aside by us for the benefit of the holders of Series A Preferred Stock to effect the redemption.

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***Liquidation Rights***

In the event that we voluntarily or involuntarily liquidate, dissolve or wind up our affairs, holders of Series A Preferred Stock will be entitled to receive an amount per share, referred to as the total liquidation amount, equal to the fixed liquidation preference of \$1,000 per share, plus any accrued and unpaid dividends, whether or not declared, to the date of payment. Holders of the Series A Preferred Stock will be entitled to receive the total liquidation amount out of our assets that are available for distribution to shareholders, after payment or provision for payment of our debts and other liabilities but before any distribution of assets is made to holders of our Common Stock or any other shares ranking, as to that distribution, junior to the Series A Preferred Stock.

If our assets are not sufficient to pay the total liquidation amount in full to all holders of Series A Preferred Stock and all holders of any shares of outstanding parity stock, the amounts paid to the holders of Series A Preferred Stock and other shares of parity stock will be paid pro rata in accordance with the respective total liquidation amount for those holders. If the total liquidation amount per share of Series A Preferred Stock has been paid in full to all holders of Series A Preferred Stock and other shares of parity stock, the holders of our Common Stock or any other shares ranking, as to such distribution, junior to the Series A Preferred Stock will be entitled to receive all of our remaining assets according to their respective rights and preferences.

For purposes of the liquidation rights, neither the sale, conveyance, exchange or transfer of all or substantially all of our property and assets, nor the consolidation or merger by us with or into any other corporation or by another corporation with or into us, will constitute a liquidation, dissolution or winding up of our affairs.

***Dividends Payable On Shares of Series A Preferred Stock***

Holders of shares of Series A Preferred Stock are entitled to receive if, as and when declared by our board of directors or a duly authorized committee of the board, out of assets legally available for payment, cumulative cash dividends at a rate per annum of 5% per share on a liquidation preference of \$1,000 per share of Series A Preferred Stock with respect to each dividend period during the five year period following November 21, 2008 and are entitled to receive cumulative cash dividends at a rate per annum of 9% per share on (i) the liquidation preference of \$1,000 per share of Series A Preferred Stock and (ii) the amount of accrued and unpaid dividends for any prior dividend period on such shares, if any, thereafter.

Dividends are payable quarterly in arrears on each February 15, May 15, August 15 and November 15, each a dividend payment date. If any dividend payment date is not a business day, then the next business day will be the applicable dividend payment date, and no additional dividends will accrue as a result of the applicable postponement of the dividend payment date. Dividends payable during any dividend period are computed on the basis of a 360-day year consisting of twelve 30-day months. Dividends payable with respect to the Series A Preferred Stock are payable to holders of record of shares of Series A Preferred Stock on the date that is 15 calendar days immediately preceding the applicable dividend payment date or such other record date as the board of directors or any duly authorized committee of the board determines, so long as such record date is not more than 60 nor less than 10 days prior to the applicable dividend payment date.

Dividends on the Series A Preferred Stock will be cumulative. If for any reason our board of directors does not declare a dividend on the Series A Preferred Stock for a particular dividend period, or if the board of directors declares less than a full dividend, we will remain obligated to pay the unpaid portion of the dividend for that period and the unpaid dividend will compound on each subsequent dividend date (meaning that dividends for future dividend periods will accrue on any unpaid dividend amounts for prior dividend periods).

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We are required to provide written notice to the holders of shares of Series A Preferred Stock prior to the applicable dividend payment date if we determine not to pay any dividend or a full dividend with respect to the Series A Preferred Stock. In this regard, in November 2009 we notified the U.S. Treasury that we were exercising our right to suspend dividend payments on the Series A Preferred Stock until further notice. As a result, as of December 31, 2010 we have accrued but not paid approximately \$2.8 million in dividends on the Series A Preferred Stock. Our ability to pay dividends in the future on the Series A Preferred Stock is limited by the terms of the Written Agreement.

*Priority of Dividends*

With respect to the payment of dividends and the amounts to be paid upon liquidation, the Series A Preferred Stock will rank:

Senior to our Common Stock and all other equity securities designated as ranking junior to the Series A Preferred Stock; and

at least equally with all other equity securities designated as ranking on a parity with the Series A Preferred Stock, or parity stock, with respect to the payment of dividends and distribution of assets upon our liquidation, dissolution or winding up.

So long as any shares of Series A Preferred Stock remain outstanding, unless all accrued and unpaid dividends for all prior dividend periods have been paid or are contemporaneously declared and paid in full on the Series A Preferred as well as the Series B Preferred and Series C Preferred, no dividend shall be paid or declared on our Common Stock or other junior stock, other than a dividend payable solely in Common Stock. We and our subsidiaries also may not purchase, redeem or otherwise acquire for consideration any shares of our Common Stock or other junior stock unless we have paid in full all accrued dividends on the Series A Preferred Stock for all prior dividend periods, other than:

purchases, redemptions or other acquisitions of our Common Stock or other junior stock in connection with the administration of our employee benefit plans in the ordinary course of business pursuant to a publicly announced repurchase plan up to the increase in diluted shares outstanding resulting from the grant, vesting or exercise of equity-based compensation;

any dividends or distributions of rights or junior stock in connection with any shareholder rights plan or repurchases of rights pursuant to any shareholder rights plan;

acquisition of record ownership of junior stock or parity stock for the beneficial ownership of any other person who is not us or our subsidiary, including as trustee or custodian; and

the exchange or conversion of junior stock for or into other junior stock or of parity stock for or into other parity stock or junior stock but only to the extent that such acquisition is required pursuant to binding contractual agreements entered into before November 21, 2008 or any subsequent agreement for the accelerated exercise, settlement or exchange thereof for Common Stock.

On any dividend payment date for which full dividends are not paid, or declared and funds are set aside, on the Series A Preferred Stock and any other parity stock, all dividends paid or declared for payment on that dividend payment date (or, with respect to parity stock with a different dividend payment date, on the applicable dividend date falling within the dividend period and related to the dividend payment date for the Series A Preferred Stock), with respect to the Series A Preferred Stock and any other parity stock shall be declared ratably among the holders of any such shares who have the right to receive dividends, in proportion to the respective amounts of the undeclared and unpaid dividends relating to the dividend period.

Subject to the foregoing, such dividends (payable in cash, stock or other property) as may be determined by our board of directors (or a duly authorized committee of the board) may be declared and paid on our Common Stock and any other stock ranking equally with or junior to the Series A Preferred

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Stock from time to time out of any funds legally available for such payment, and the Series A Preferred Stock shall not be entitled to participate in any such dividend.

***Redemption***

The Certificate of Determination of Series A Preferred Stock provides that such stock may not be redeemed prior to February 15, 2012, unless we have received aggregate gross proceeds from one or more qualified equity offerings (as described below) equal to \$10 million, which equals 25% of the aggregate liquidation amount of the Series A Preferred Stock on the date of issuance. In such a case, we may redeem the Series A Preferred Stock, subject to the approval of the Federal Reserve, in whole or in part, upon notice as described below, up to a maximum amount equal to the aggregate net cash proceeds received by us from such qualified equity offerings. A "qualified equity offering" is a sale and issuance for cash by us, to persons other than us or our subsidiaries after November 21, 2008, of shares of perpetual preferred stock, Common Stock or a combination thereof, that in each case qualify as our Tier 1 capital at the time of issuance under the applicable risk-based capital guidelines of the Federal Reserve. Qualified equity offerings do not include issuances made in connection with acquisitions, issuances of trust preferred securities and issuances of Common Stock and/or perpetual preferred stock made pursuant to agreements or arrangements entered into, or pursuant to financing plans that were publicly announced, on or prior to October 13, 2008. The Certificate of Determination for the Series A Preferred Stock provides that, after February 15, 2012, the Series A Preferred Stock may be redeemed at any time, subject to the approval of the Federal Reserve, in whole or in part, subject to notice as described below.

In connection with the adoption of the American Recovery and Reinvestment Act of 2009, subject to the approval of the U.S. Treasury and the Federal Reserve, we may repurchase the Series A Preferred Stock at any time regardless of whether or not we have replaced such funds from any other source.

In any redemption or repurchase, the redemption or repurchase price is an amount equal to the per share liquidation amount plus accrued and unpaid dividends to but excluding the date of redemption.

The Series A Preferred Stock is not subject to any mandatory redemption, sinking fund or similar provisions. Holders of shares of Series A Preferred Stock have no right to require the redemption or repurchase of the Series A Preferred Stock.

If fewer than all of the outstanding shares of Series A Preferred Stock are to be redeemed, the shares to be redeemed will be selected either pro rata from the holders of record of shares of Series A Preferred Stock in proportion to the number of shares held by those holders or in such other manner as our board of directors or a committee thereof may determine to be fair and equitable.

We will mail notice of any redemption of Series A Preferred Stock by first class mail, postage prepaid, addressed to the holders of record of the shares of Series A Preferred Stock to be redeemed at their respective last addresses appearing on our books. This mailing will be at least 30 days and not more than 60 days before the date fixed for redemption. Any notice mailed or otherwise given as described in this paragraph will be conclusively presumed to have been duly given, whether or not the holder receives the notice, and failure duly to give the notice by mail or otherwise, or any defect in the notice or in the mailing or provision of the notice, to any holder of Series A Preferred Stock designated for redemption will not affect the redemption of any other Series A Preferred Stock. Each notice of redemption will set forth the applicable redemption date, the redemption price, the place where shares of Series A Preferred Stock are to be redeemed, and the number of shares of Series A Preferred Stock to be redeemed (and, if less than all shares of Series A Preferred Stock held by the applicable holder, the number of shares to be redeemed from the holder).

Shares of Series A Preferred Stock that are redeemed, repurchased or otherwise acquired by us will revert to authorized but unissued shares of our preferred stock.

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**Treasury Warrant**

In connection with the U.S. Treasury's purchase of our Series A Preferred Stock, we issued to the U.S. Treasury, or the "warrantholder," a warrant exercisable for 462,963 shares of our Common Stock (subject to adjustment as described below) at an initial exercise price of \$12.96 per share, referred to as the Warrant. The Warrant may be exercised at any time on or before November 21, 2018 by surrender of the Warrant and a completed notice of exercise attached as an annex to the Warrant together with payment of the exercise price for the shares of Common Stock for which the Warrant is being exercised. The exercise price may be paid either by our withholding of such number of shares of Common Stock issuable upon exercise of the Warrant equal to the value of the aggregate exercise price of the Warrant determined by reference to the market price of our Common Stock on the trading day on which the Warrant is exercised or, if agreed to by us and the warrantholder, by the payment of cash equal to the aggregate exercise price.

***Rights as a Shareholder***

The warrantholder shall have no rights or privileges of the holders of our Common Stock, including any voting rights, until (and then only to the extent) the Warrant has been exercised.

***Transferability***

The Warrant, and all rights under the Warrant are transferable.

***Adjustments to the Warrant***

*Adjustments in Connection with Stock Splits, Subdivisions, Reclassifications and Combinations.* The number of shares for which the Warrant may be exercised and the exercise price of the Warrant will be proportionately adjusted in the event we pay stock dividends or make distributions of our Common Stock, subdivide, combine or reclassify outstanding shares of our Common Stock.

*Anti-dilution Adjustment.* Until the earlier of either November 21, 2011 or the date the initial warrantholder no longer holds the Warrant (and other than in certain permitted transactions described below), if we issue any shares of Common Stock (or securities convertible or exercisable into Common Stock) for less than 90% of the market price of the Common Stock on the last trading day prior to pricing such shares, then the number of shares of Common Stock into which the Warrant is exercisable and the exercise price will be adjusted. Permitted transactions include issuances:

as consideration for or to fund the acquisition of businesses and/or related assets;

in connection with employee benefit plans and compensation related arrangements in the ordinary course and consistent with past practice approved by our board of directors;

in connection with public or broadly marketed offerings and sales of Common Stock or convertible securities for cash conducted by us or our affiliates pursuant to registration under the Securities Act, or Rule 144A thereunder on a basis consistent with capital-raising transactions by comparable financial institutions (but do not include other private transactions); and

in connection with the exercise of preemptive rights (if any) on terms existing as of November 21, 2008.

The number of shares issuable upon exercise of the Warrant was not increased as a result of our issuance (or conversion) of the Series B Preferred Stock and Series C Preferred Stock.

*Other Distributions.* If we declare any dividends or distributions other than our historical ordinary cash dividends, the exercise price of the Warrant will be adjusted to reflect such distribution.

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*Certain Repurchases.* If we effect a pro rata repurchase of Common Stock, both the number of shares issuable upon exercise of the Warrant and the exercise price will be adjusted.

*Business Combinations.* In the event of a merger, consolidation or similar transaction by us that requires shareholder approval, the warrant holder's right to receive shares of our Common Stock upon exercise of the Warrant shall be converted into the right to exercise the Warrant for the consideration that would have been payable to the warrant holder with respect to the shares of Common Stock for which the Warrant may be exercised, as if the Warrant had been exercised prior to such merger, consolidation or similar transaction.

***Repurchase***

Following the redemption in whole of the Series A Preferred Stock held by the warrant holder or the transfer by the warrant holder of all of its Series A Preferred Stock to one or more unaffiliated third parties, we may, upon notice to the warrant holder, repurchase any portion of the Warrant at any time at Fair Market Value (as described below).

"Fair Market Value" is first determined by our board of directors, acting in good faith in reliance on an opinion of a nationally recognized independent investment banking firm. If the warrant holder disagrees with our board of directors' determination, it may object within ten days. Following such an objection, an authorized representative of the warrant holder and our Chief Executive Officer will promptly meet to agree upon the Fair Market Value. If, after ten days following the objection of the warrant holder, such parties are unable to agree on the Fair Market Value, the Appraisal Procedure (as described below) may be invoked by either party within thirty days of the warrant holder's objection.

"Appraisal Procedure" means a procedure whereby two independent appraisers, one chosen by the warrant holder and one chosen by us, mutually agree on the determinations then subject to appraisal. If the two independent appraisers are unable to agree, a third independent appraiser will be chosen by mutual consent of the first two appraisers. In certain cases where the determination of one appraiser differs widely from those of the other two appraisers, the disparate appraisal may be excluded. Whether or not an appraisal is so excluded, the average of the included appraisals is binding upon us and the warrant holder.

**Series C Preferred Stock**

We have designated 21,050 shares of preferred stock as the Series C Convertible Perpetual Preferred Stock, of which 21,004 shares are issued and outstanding as of the date of this prospectus, with no par value per share and a liquidation preference of \$1,000 per share (subject to adjustment for any split, subdivision, combination, consolidation, recapitalization or similar event).

***Ranking***

With respect to dividend rights and rights on liquidation, winding up and dissolution, the Series C Preferred Stock ranks (i) on a parity with each class or series of equity securities of the Company the terms of which do not expressly provide that such class or series will rank senior or junior to the Series C Preferred Stock (including the Series A Preferred Stock) and (ii) senior to our Common Stock, and each other class or series of capital stock outstanding or established after issuance of the Series C Preferred Stock, the terms of which do not expressly provide that it ranks on a parity with or senior to the Series C Preferred Stock.

***Dividends***

Dividends are payable on the Series C Preferred (on an as converted basis) if and only to the extent dividends are paid to holders of Common Stock.

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***Voting Rights***

Except as set forth below, the holders of Series C Preferred Stock do not have any voting rights. In addition to any other vote or written consent of shareholders required by law or by the Company's amended and restated articles of incorporation, the vote or written consent of the holders of at least two thirds of the outstanding shares of Series C Preferred Stock entitled to vote, voting together as a single class, is required for effecting or validating any amendment, alteration or repeal of any provision of the amended and restated articles of incorporation or our amended and restated bylaws that would alter or change the rights, preferences or privileges of the Series C Preferred Stock so as to affect the holders adversely.

So long as any shares of Series C Preferred Stock are outstanding, a holder is entitled to vote, with a number of votes equal to that number of shares of our Common Stock into which such holder's shares of Series C Preferred Stock would then be convertible, together with the holders of our Common Stock acting as a single class, for effecting or validating any consummation of any Reorganization Event (see description of Reorganization Events below).

***Rights Upon Liquidation***

In the event the Company voluntarily or involuntarily liquidates, dissolves or winds up, the holders of the Series C Preferred Stock will be entitled, for each share of the Series C Preferred Stock held, to the liquidation preference per share of \$1,000, plus any accrued and unpaid dividends and any authorized and declared but unpaid dividends.

In the event the assets of the Company available for distribution to shareholders upon any liquidation, dissolution or winding-up of the affairs of the Company, whether voluntary or involuntary, are insufficient to pay in full the amounts payable with respect to all outstanding shares of the Series C Preferred Stock and the corresponding amounts payable on any parity securities, holders of Series C Preferred Stock and the holders of parity securities will share ratably in any distribution of assets of the Company in proportion to the full respective liquidating distributions to which they would otherwise be respectively entitled.

***Redemption***

The Series C Preferred Stock is not redeemable by the Company at any time and the holders have no right to require redemption of any shares of Series C Preferred Stock.

***Conversion***

The Series C Preferred Stock will automatically convert into Common Stock on the date of the transfer of the Series C Preferred Stock to a transferee not affiliated with the holder in a widely dispersed offering subsequent to receipt of the Shareholder Approvals. The term "widely dispersed offering" means a (i) widespread public distribution, including pursuant to a registration statement filed with and declared effective by the SEC or Rule 144 under the Securities Act, (ii) a transfer in which no transferee (or group of associated transferees) after giving effect to the transfer, would own more than 2% of any class of voting securities of the Company or (iii) a transfer to a transferee that controls or is acquiring control of more than 50% of the voting securities.

The number of shares of our Common Stock into which a share of Series C Preferred Stock will be convertible will be determined by dividing the liquidation value of \$1,000 per share, by the then applicable conversion price. No fractional shares of Common Stock will be issued. Upon conversion, cash will be paid in lieu of fractional shares based on the closing price of the Common Stock determined as of the second trading day immediately preceding the date of the mandatory conversion. The initial conversion price of the Series C Preferred Stock is \$3.75 per share of Common Stock into which it is converted and the initial

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number of shares of our Common Stock into which one share of Series C Preferred Stock is convertible into is 266.67.

***Anti-Dilution Provisions***

The conversion price of the Series C Preferred will be subject to adjustment as follows: (i) if the Company subdivides its outstanding shares of Common Stock into a greater number of shares, then the Company shall similarly subdivide its outstanding shares of Series C Preferred Stock or (ii) if the Company combines its outstanding shares of Common Stock into a smaller number of shares of Common Stock, then the Company shall similarly combine its outstanding shares of Series C Preferred Stock.

***Reorganization Events***

If we enter into a transaction constituting a consolidation or merger of the Company or similar transaction or any sale or other transfer of all or substantially all of the consolidated assets of the Company and its subsidiaries, taken as a whole (in each case pursuant to which our Common Stock will be converted into cash, securities or other property) or for certain reclassifications or exchanges of our Common Stock, then each holder of Series C Preferred Stock will have the right to either treat such event as a liquidating event and take a liquidating distribution, or participate in the reorganization event as though the Series C Preferred Stock converted, effective on the date such transaction is consummated (or, if later, the date applicable regulatory approvals are obtained), into the securities, cash and other property receivable in the transaction by the holder of the number of shares of Common Stock into which such Series C Preferred Stock would then be convertible, assuming receipt of any applicable regulatory approval.

***Transfer Agent and Registrar***

The transfer agent and registrar for our Series C Preferred Stock is Wells Fargo Shareholder Services.

**Anti-Takeover Effects of Certain Provisions of Our Charter Documents and Law**

The following is a summary of certain provisions of law, our amended and restated articles of incorporation and amended and restated bylaws, that may have the effect of discouraging, delaying or preventing a change of control, change in management or an unsolicited acquisition proposal that a shareholder might consider favorable, including proposals that might result in the payment of a premium over the market price for the shares held by our shareholders. This summary does not purport to be complete and is qualified in its entirety by reference to the laws and documents referenced.

***Charter Documents***

Our authorized shares of Common Stock or preferred stock may be used by the board of directors consistent with its fiduciary duty to deter future attempts to gain control of us. The board of directors also has sole authority to determine the terms of any one or more series of preferred stock, including voting rights, conversion rates and liquidation preferences. As a result of the ability to fix voting rights for a series of preferred stock, the board of directors has the power, to the extent consistent with its fiduciary duty, to issue a series of preferred stock to persons friendly to management in order to attempt to block a post-tender offer merger or other transaction by which a third party seeks control, and thereby assist management to retain its position. Our bylaws impose certain notice and information requirements in connection with the nomination by shareholders of candidates for election to the board of directors or the proposal by shareholders of business to be acted upon at any annual or special meeting of shareholders.

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***California and Federal Banking Law***

The following discussion is a summary of certain provisions of California and federal law and regulations which may be deemed to have "anti-takeover" effects. The description of these provisions is necessarily general and reference should be made to the actual law and regulations.

Federal law prohibits a person or group of persons "acting in concert" from acquiring "control" of a bank holding company unless the Federal Reserve has been given 60 days prior written notice of such proposed acquisition and within that time period the Federal Reserve has not issued a notice disapproving the proposed acquisition or extending for up to another 30 days the period during which such a disapproval may be issued. An acquisition may be made prior to the expiration of the disapproval period if the Federal Reserve issues written notice of its intent not to disapprove the action. Under a rebuttable presumption established by the Federal Reserve, the acquisition of 10% or more of a class of voting stock of a bank or bank holding company with a class of securities registered under Section 12 of the Exchange Act would, under the circumstances set forth in the presumption, constitute the acquisition of control. In addition, any "company" would be required to obtain the approval of the Federal Reserve under the Bank Holding Company Act before acquiring 25% (5% in the case of an acquiror that is, or is deemed to be, a bank holding company) or more of any class of voting stock, or such lesser number of shares as may constitute control.

Under the California Financial Code, no person shall, directly or indirectly, acquire control of a California state bank or its holding company unless the Department of Financial Institutions has approved such acquisition of control. A person would be deemed to have acquired control of Heritage Commerce Corp if such person, directly or indirectly, has the power (i) to vote 25% or more of the voting power of Heritage Commerce Corp or (ii) to direct or cause the direction of the management and policies of Heritage Commerce Corp. For purposes of this law, a person who directly or indirectly owns or controls 10% or more of our outstanding Common Stock would be presumed to control Heritage Commerce Corp.

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**PLAN OF DISTRIBUTION**

We are registering the Securities issued to the selling securityholders to permit the resale of these Securities by the holders of the Securities from time to time after the date of this prospectus. We will not receive any of the proceeds from the sale by the selling securityholders of the Securities. We will bear all fees and expenses incident to our obligation to register the Securities.

The selling securityholders may sell all or a portion of the Securities beneficially owned by them and offered hereby from time to time directly or through one or more underwriters, broker-dealers or agents. If the Securities are sold through underwriters or broker-dealers, the selling securityholders will be responsible for underwriting discounts or commissions or agent's commissions. The Securities may be sold on any national securities exchange or quotation service on which the securities may be listed or quoted at the time of sale, in the over-the-counter market or in transactions otherwise than on these exchanges or systems or in the over-the-counter market and in one or more transactions at fixed prices, at prevailing market prices at the time of the sale, at varying prices determined at the time of sale, or at negotiated prices. These sales may be effected in transactions, which may involve crosses or block transactions. The selling securityholders may use any one or more of the following methods when selling Securities:

ordinary brokerage transactions and transactions in which the broker-dealer solicits purchasers;

block trades in which the broker-dealer will attempt to sell the shares as agent but may position and resell a portion of the block as principal to facilitate the transaction;

purchases by a broker-dealer as principal and resale by the broker-dealer for its account;

an exchange distribution in accordance with the rules of the applicable exchange;

privately negotiated transactions;

settlement of short sales entered into after the effective date of the registration statement of which this prospectus is a part;

broker-dealers may agree with the selling securityholders to sell a specified number of such securities at a stipulated price per share;

through the writing or settlement of options or other hedging transactions, whether such options are listed on an options exchange or otherwise;

a combination of any such methods of sale; and

any other method permitted pursuant to applicable law.

The selling securityholders also may resell all or a portion of the Securities in open market transactions in reliance upon Rule 144 under the Securities Act, as permitted by that rule, or Section 4(1) under the Securities Act, if available, rather than under this prospectus, provided that they meet the criteria and conform to the requirements of those provisions.

Broker-dealers engaged by the selling securityholders may arrange for other broker-dealers to participate in sales. If the selling securityholders effect such transactions by selling Securities to or through underwriters, broker-dealers or agents, such underwriters, broker-dealers or agents may receive commissions in the form of discounts, concessions or commissions from the selling securityholders or commissions from purchasers of the Securities for whom they may act as agent or to whom they may sell as principal. Such commissions will be

in amounts to be negotiated, but, except as set forth in a supplement to this prospectus, in the case of an agency transaction will not be in excess of a customary brokerage commission in compliance with NASD Rule 2440; and in the case of a principal transaction a markup or markdown in compliance with NASD IM-2440.

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In connection with sales of the Securities or otherwise, the selling securityholders may enter into hedging transactions with broker-dealers or other financial institutions, which may in turn engage in short sales of the Common Stock in the course of hedging in positions they assume. The selling securityholders may also sell Securities short and if such short sale shall take place after the date that the registration statement of which this prospectus is a part is declared effective by the SEC, the selling securityholders may deliver Securities covered by this prospectus to close out short positions and to return borrowed shares in connection with such short sales. The selling securityholders may also loan or pledge Common Stock to broker-dealers that in turn may sell such shares, to the extent permitted by applicable law. The selling securityholders may also enter into options or other transactions with broker-dealers or other financial institutions or the creation of one or more derivative securities which require the delivery to such broker-dealer or other financial institution of shares offered by this prospectus, which shares such broker-dealer or other financial institution may resell pursuant to this prospectus (as supplemented or amended to reflect such transaction). Notwithstanding the foregoing, the selling securityholders have been advised that they may not use shares registered on this registration statement to cover short sales of our Common Stock made prior to the date the registration statement, of which this prospectus forms a part, has been declared effective by the SEC.

The selling securityholders may, from time to time, pledge or grant a security interest in some or all of the Securities owned by them and, if they default in the performance of their secured obligations, the pledgees or secured parties may offer and sell the Securities from time to time pursuant to this prospectus or any amendment to this prospectus under Rule 424(b)(3) or other applicable provision of the Securities Act, amending, if necessary, the list of selling securityholders to include the pledgee, transferee or other successors in interest as selling securityholders under this prospectus. The selling securityholders also may transfer and donate the Securities in other circumstances in which case the transferees, donees, pledgees or other successors in interest will be the selling beneficial owners for purposes of this prospectus.

The selling securityholders and any broker-dealer or agents participating in the distribution of the Securities may be deemed to be "underwriters" within the meaning of Section 2(11) of the Securities Act in connection with such sales. In such event, any commissions paid, or any discounts or concessions allowed to, any such broker-dealer or agent and any profit on the resale of the shares purchased by them may be deemed to be underwriting commissions or discounts under the Securities Act. Selling securityholders who are "underwriters" within the meaning of Section 2(11) of the Securities Act will be subject to the applicable prospectus delivery requirements of the Securities Act and may be subject to certain statutory liabilities of, including but not limited to, Sections 11, 12 and 17 of the Securities Act and Rule 10b-5 under the Securities Exchange Act.

Each selling securityholder has informed us that it is not a registered broker-dealer and does not have any written or oral agreement or understanding, directly or indirectly, with any person to distribute the Securities. Upon being notified in writing by a selling securityholder that any material arrangement has been entered into with a broker-dealer for the sale of Securities through a block trade, special offering, exchange distribution or secondary distribution or a purchase by a broker or dealer, we will file a supplement to this prospectus, if required, pursuant to Rule 424(b) under the Securities Act, disclosing (i) the name of each such selling securityholder and of the participating broker-dealer(s), (ii) the number of shares involved, (iii) the price at which such Securities were sold, (iv) the commissions paid or discounts or concessions allowed to such broker-dealer(s), where applicable, (v) that such broker-dealer(s) did not conduct any investigation to verify the information set out or incorporated by reference in this prospectus and (vi) other facts material to the transaction. In no event shall any broker-dealer receive fees, commissions and markups, which, in the aggregate, would exceed eight percent.

Under the securities laws of some states, the Securities may be sold in such states only through registered or licensed brokers or dealers. In addition, in some states the Securities may not be sold unless such shares have been registered or qualified for sale in such state or an exemption from registration or qualification is available and is complied with.

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There can be no assurance that any selling securityholder will sell any or all of the Securities registered pursuant to the shelf registration statement, of which this prospectus forms a part.

Each selling securityholder and any other person participating in such distribution will be subject to applicable provisions of the Securities Exchange Act and the rules and regulations thereunder, including, without limitation, to the extent applicable, Regulation M of the Securities Exchange Act, which may limit the timing of purchases and sales of any of the Securities by the selling securityholder and any other participating person. To the extent applicable, Regulation M may also restrict the ability of any person engaged in the distribution of the Securities to engage in market-making activities with respect to the Common Stock. All of the foregoing may affect the marketability of the Securities and the ability of any person or entity to engage in market-making activities with respect to the Securities.

We will pay all expenses of the registration of the Securities pursuant to a registration rights agreement, including, without limitation, SEC filing fees and expenses of compliance with state securities or "blue sky" laws; provided, however, that each selling securityholder will pay all underwriting discounts and selling commissions, if any, and any related legal expenses incurred by it. We will indemnify the selling securityholders against certain liabilities, including some liabilities under the Securities Act, in accordance with the registration rights agreement, or the selling securityholders will be entitled to contribution. We may be indemnified by the selling securityholders against civil liabilities, including liabilities under the Securities Act, that may arise from any written information furnished to us by the selling securityholders specifically for use in this prospectus, in accordance with the related registration rights agreements, or we may be entitled to contribution.

**LEGAL MATTERS**

The validity of the shares of the securities offered by this prospectus will be passed upon for us by Buchalter Nemer, a Professional Corporation, Los Angeles, California.

**EXPERTS**

The consolidated financial statements of Heritage Commerce Corp appearing in Heritage Commerce Corp's Annual Report on Form 10-K for the year ended December 31, 2010 have been audited by Crowe Horwath LLP, an independent registered public accounting firm, as set forth in its report thereon, incorporated by reference herein, upon the authority of said firm as experts in accounting and auditing.