

TRIBEWORKS INC
Form 8-K
October 11, 2005

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SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

**Pursuant to Section 13 or 15(d) of the
Securities Exchange Act of 1934**

Date of Report (Date of earliest event reported):

October 6, 2005 (September 30, 2005)

TRIBEWORKS, INC.

(Exact name of registrant as specified in its charter)

Delaware
(State or Other
Jurisdiction of
Incorporation)

001-28675
(Commission
File Number)

94-337095
(IRS Employer
Identification No.)

243 Front Street
San Francisco, California 94111
(Address of Principal Executive Offices) (Zip Code)
(415) 674-5555
(Registrant's telephone number, including area code)

(Registrant's Name or Former Address, if Changed Since Last Report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (*see* General Instruction A.2. below):

- ☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
 - ☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
 - ☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
 - ☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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ITEM 3.02: UNREGISTERED SALES OF EQUITY SECURITIES

The Company completed a private placement of 84,000 shares of its Series B Convertible Redeemable Preferred Stock (the Series B Preferred Stock), stated value \$0.50 per share (the Shares) on September 30, 2005. The Series B Preferred Stock has a stated value of \$0.50 per share and ranks prior to all of the Company's common stock, par value \$0.0004 per share (the Common Stock) with respect to dividends and distribution of assets upon liquidation of the Company, whether voluntary or involuntary and *pari passu* with the Company's Series A Convertible Redeemable Preferred Stock. Holders of Series B Preferred Stock will receive annual cumulative dividends equal to ten percent (10%) of the aggregate Liquidation Preference (which shall be the stated value of the Series B Preferred Stock, plus accrued but unpaid dividends, if any) per share of Series B Preferred Stock. Accrued dividends with respect to each share of Series B Preferred Stock are payable either in cash or in shares of Common Stock, at the Company's sole option.

Each Share is convertible at the sole option of the Company into one (1) fully paid and non-assessable share of Common Stock. At any time after issuance, the Company may redeem all, but not less than all, of the outstanding shares of Series B Preferred Stock for \$0.50 per share plus any accrued but unpaid dividends thereon. The holders of Series B Preferred Stock may elect to convert their shares after receipt of a notice of redemption from the Company until the close of business on the business day prior to the redemption date specified by the Company in the redemption notice. Such redemption notice must be delivered by the Company to the holders of the outstanding shares of Series B Preferred Stock at least 30 days prior to the redemption date specified by the Company in the redemption notice. The conversion ratio for the Series B Preferred Stock is one share of Common Stock for each share of Series B Preferred Stock so converted. At any time after issuance, the Company may, at its sole option, also force the holders of the Series B Preferred Stock to convert their shares of Series B Preferred Stock into Common Stock on a 1:1 conversion ratio.

In the event of conversion of the outstanding shares of Series B Preferred Stock, the Company is obligated to issue to each holder of then outstanding Series B Preferred Stock a one year warrant to purchase one (1) share of Common Stock at a strike price of \$1.00 per share for each two (2) shares of Series B Preferred Stock so converted.

In order to (i) effect an amendment of the Company's Certificate of Incorporation or By-Laws which would materially adversely affect the rights of the Series B Preferred Stock or (ii) to alter, amend or repeal the rights preferences and special powers of the Series B Preferred Stock, the affirmative vote of the holders of at least 66-2/3% of the then outstanding shares of Series B Preferred Stock must first be obtained. Holders of Series B Preferred Stock have no voting rights other than as set forth in this paragraph.

The Company is not prohibited from issuing additional series of preferred stock that are senior in priority to the Series B Preferred Stock. Beginning 6 months from the date of closing, upon demand, the Company has an obligation to register the resale of the shares of Common Stock issuable upon conversion of the Series B Preferred Stock and the exercise of the warrants discussed above.

The Company privately placed 84,000 shares of Series B Preferred Stock with 4 accredited investors for an aggregate purchase price of \$42,000, which funds have been received by the Company. The Company privately placed these shares of Series B Preferred Stock directly without the use of any broker, placement agent or finder. No additional Shares of Series B Preferred Stock will be sold by the Company. The Company relied on the exemptions from registration requirements provided by Section 4(2) and Section 4(6) and Rule 506 of Regulation D promulgated under the Securities Act of 1933, as amended (the Act) for this transaction and for the issuances. Each investor represented to the Company, in writing, that they were an accredited investor as that term is defined in Rule 501 of Regulation D promulgated under the Act.

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Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

SIGNATURES

TRIBEWORKS, INC.

Date: October 7, 2005

/s/ Peter B. Jacobson
PETER B. JACOBSON,
Chief Executive Officer

EXHIBIT INDEX

<u>Exhibit Number</u>	<u>Description</u>
4.1	Certificate of Designation, Preferences, Rights and Limitations of Series B Convertible Redeemable Preferred Stock of Tribeworks, Inc. as filed with the Secretary of State of the State of Delaware on September 8, 2005.