

US BANCORP \DE\  
Form S-4  
November 28, 2006

[QuickLinks](#) -- Click here to rapidly navigate through this document

As filed with the Securities and Exchange Commission on November 28, 2006

REGISTRATION NO. 333-

---

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

---

**FORM S-4**  
REGISTRATION STATEMENT  
UNDER  
THE SECURITIES ACT OF 1933

---

**U.S. BANCORP**

(Exact Name of Registrant as Specified in its Charter)

**Delaware**  
(State or Other Jurisdiction of  
Incorporation)

**6711**  
(Primary Standard Industrial  
Classification Code Number)

**41-0255900**  
(I.R.S. Employer  
Identification Number)

**U.S. Bancorp**  
**800 Nicollet Mall**  
**Minneapolis, Minnesota 55402**  
**(651) 466-3000**

(Address, including Zip Code, and Telephone Number, including Area Code, of  
Registrant's Principal Executive Offices)

**Lee R. Mitau, Esq.**  
**Executive Vice President, General Counsel and**  
**Corporate Secretary**  
**U.S. Bancorp**  
**800 Nicollet Mall**  
**Minneapolis, Minnesota 55402**  
**(651) 466-3000**

(Name, Address, including Zip Code, and Telephone Number, including Area Code,  
of Agent for Service)

*With Copies To:*

**Lawrence S. Makow**  
**Wachtell, Lipton, Rosen & Katz**  
**51 West 52nd Street**  
**New York, New York 10019**  
**(212) 403-1000**

**Kevin Costley**  
**Jonathan Levy**  
**Lindquist & Vennum PLLP**  
**4200 IDS Center**  
**80 South Eighth Street**  
**Minneapolis, Minnesota 55402**  
**(612) 371-3211**

---

**Approximate date of commencement of the proposed sale of the securities to the public:** As soon as practicable after this Registration Statement becomes effective.

---

## Edgar Filing: US BANCORP \DE\ - Form S-4

If the securities being registered on this Form are being offered in connection with the formation of a holding company and there is compliance with General Instruction G, check the following box.

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act of 1933, as amended (the "*Securities Act*"), check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

### CALCULATION OF REGISTRATION FEE

Title of Each Class of Securities to be Registered	Amount to be Registered(1)	Proposed Maximum Offering Price Per Share of Common Stock	Proposed Maximum Aggregate Offering Price(2)	Amount of Registration Fee(3)
Common Stock, par value \$0.01 per share	2,099,247	N/A	\$70,866,893	\$7,583

- (1) Represents the maximum number of shares of U.S. Bancorp common stock, par value \$0.01 per share, estimated to be issuable upon the completion of the merger of Cascade Acquisition Corporation, a Minnesota corporation and wholly owned subsidiary of U.S. Bancorp, with and into United Financial Corporation, a Minnesota corporation, based on the number of shares of United common stock, no par value, outstanding or reserved for issuance under various plans, immediately prior to the merger and the exchange of each such share of United common stock for 0.6825 shares of U.S. Bancorp common stock.
- (2) Pursuant to Rule 457(f), and solely for the purpose of calculating the registration fee, the proposed maximum offering price per share is based upon the aggregate market value on November 24, 2006 of the shares of United Financial Corp. common stock expected to be cancelled in the merger and computed as the product of (1) \$23.04, the average of the high and low prices per share of United Financial Corp. common stock on November 24, 2006, as quoted on the Nasdaq Global Market, and (2) 3,075,820, the maximum number of shares of United Financial Corp. common stock which may be exchanged in the merger.
- (3) Determined in accordance with Section 6(b) of the Securities Act at a rate equal to \$107.00 per \$1,000,000 of the proposal maximum aggregate offering price.

**THE REGISTRANT HEREBY AMENDS THIS REGISTRATION STATEMENT ON SUCH DATE OR DATES AS MAY BE NECESSARY TO DELAY ITS EFFECTIVE DATE UNTIL THE REGISTRANT SHALL FILE A FURTHER AMENDMENT WHICH SPECIFICALLY STATES THAT THIS REGISTRATION STATEMENT SHALL THEREAFTER BECOME EFFECTIVE IN ACCORDANCE WITH SECTION 8(a) OF THE SECURITIES ACT OF 1933 OR UNTIL THE REGISTRATION STATEMENT SHALL BECOME EFFECTIVE ON SUCH DATE AS THE COMMISSION, ACTING PURSUANT TO SAID SECTION 8(a), MAY DETERMINE.**

**PRELIMINARY DRAFT DATED NOVEMBER 28, 2006, SUBJECT TO COMPLETION**

**The information in this document is not complete and may be changed. We may not sell the securities offered by this document until the registration statement filed with the Securities and Exchange Commission is effective. This document is not an offer to sell these securities, and we are not soliciting an offer to buy these securities, in any state where the offer or sale is not permitted.**

**PROPOSED MERGER YOUR VOTE IS VERY IMPORTANT**

Dear Shareholder:

We are pleased to report that the board of directors of United Financial Corp. has unanimously approved a strategic merger of United Financial Corp. into a wholly owned subsidiary of U.S. Bancorp. Before we can complete the merger, we must obtain the approval of the shareholders of United. We are sending you this document to ask you to vote in favor of approval and adoption of the merger agreement.

In the merger, a wholly owned subsidiary of U.S. Bancorp will merge with and into United, and United will survive the merger as a wholly owned subsidiary of U.S. Bancorp. If the merger is completed, United shareholders will receive 0.6825 shares of U.S. Bancorp common stock for each share of United common stock held immediately prior to the merger.

Based on the closing price of U.S. Bancorp common stock on the New York Stock Exchange on November 3, 2006, the last trading day before public announcement of the merger, the 0.6825 exchange ratio represented approximately \$22.91 in value for each share of United common stock. Based on the closing price of U.S. Bancorp common stock on the New York Stock Exchange on [ ], the latest practicable date before the date of this document, the 0.6825 exchange ratio represented approximately \$[ ] in value for each share of United common stock. You should obtain current market quotations for both U.S. Bancorp common stock and United common stock. U.S. Bancorp's common stock is listed on the New York Stock Exchange under the symbol "USB." United common stock is reported on the Nasdaq Global Market under the symbol "UBMT."

The merger is intended to be generally tax-free to United shareholders other than with respect to any cash received instead of fractional shares of U.S. Bancorp common stock.

We cannot complete the merger unless United shareholders approve and adopt the merger agreement. United will hold a shareholders' meeting to vote on this merger proposal. **Your vote is important.** Whether or not you plan to attend the special meeting, please submit your proxy with voting instructions in accordance with the instructions contained in this document. If you do not vote, it will have the same effect as voting against the merger.

***The United Board of Directors Unanimously Recommends  
That You Vote "FOR" Approval and Adoption of the Merger Agreement***

This document describes the special meeting, the merger, the documents related to the merger, and other related matters. **Please read this entire document carefully.** You can also obtain information about U.S. Bancorp and United from documents that U.S. Bancorp and United have filed with the Securities and Exchange Commission.

---

Kurt R. Weise  
Chairman of the Board

**Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved the U.S. Bancorp common stock to be issued under this proxy statement/prospectus or determined if this proxy statement/prospectus is accurate or adequate. Any representation to the contrary is a criminal offense.**

The securities to be issued in the merger are not savings or deposit accounts and are not insured by the Federal Deposit Insurance Corporation or any other governmental agency.

Edgar Filing: US BANCORP \DE\ - Form S-4

The date of this proxy statement/prospectus is [            ], and it is first being mailed to United shareholders on or about [            ].

---

**UNITED FINANCIAL CORP.**  
**120 First Avenue North, Great Falls, Montana 59403**

**NOTICE OF SPECIAL MEETING OF SHAREHOLDERS**

**TO BE HELD ON [ ]**

United Financial Corp. will hold a special meeting of United shareholders at [ ], at [ ] local time, on [ ] to consider and vote upon the following matters:

a proposal to approve and adopt the Agreement and Plan of Merger, between and among U.S. Bancorp, Cascade Acquisition Corporation and United Financial Corp., dated as of November 6, 2006, as it may be amended from time to time, pursuant to which Cascade Acquisition Corporation will merge with and into United Financial Corp.;

a proposal to approve the adjournment of the United special meeting, if necessary or appropriate, to solicit additional proxies; and

such other business as may properly come before the special meeting of shareholders or any adjournment or postponement of the meeting.

Upon completion of the merger, United will be a wholly owned subsidiary of U.S. Bancorp, and each share of United common stock will be converted into 0.6825 shares of U.S. Bancorp common stock. Your attention is directed to the proxy statement/prospectus accompanying this notice for a complete discussion of the merger. A copy of the merger agreement is included as **Annex A** to the accompanying proxy statement/prospectus.

The board of directors has fixed the close of business on [ ] as the record date for the United special meeting. United shareholders of record at such time are entitled to notice of, and to vote at, the United special meeting or any adjournment or postponement of the special meeting.

**Whether or not you plan to attend the special meeting, please submit your proxy with voting instructions. To submit your proxy by mail, please complete, sign, date and return the accompanying proxy card in the enclosed self-addressed, stamped envelope.** Alternatively, you may use the toll-free telephone number indicated on the proxy card to vote by telephone or the website indicated on the proxy card to vote on the internet. This will not prevent you from voting in person, but will help secure a quorum and reduce solicitation costs. Any holder of United common stock present at the special meeting may vote in person instead of by proxy, thereby canceling any previous proxy. A proxy may be revoked in writing at any time before the special meeting.

The United board of directors has unanimously approved the merger agreement and unanimously recommends that United shareholders vote "for" approval and adoption of the merger agreement.

**By Order of the Board of Directors,**

---

Kurt R. Weise  
Chairman of the Board

**Your vote is important. Please complete, sign, date and return your proxy card, or vote via phone or the Internet promptly, whether or not you plan to attend the special meeting.**

---

**REFERENCES TO ADDITIONAL INFORMATION**

This document incorporates important business and financial information about U.S. Bancorp from documents that are not included in or delivered with this document. You can obtain documents incorporated by reference in this document and other filings of United and U.S. Bancorp by requesting them in writing or by telephone from the appropriate company at the following addresses:

**United Financial Corp.**  
120 First Avenue North,  
Great Falls, Montana 59403  
Attention: Kevin P. Clark  
Telephone: (406) 727-6106

**U.S. Bancorp**  
800 Nicollet Mall  
Minneapolis, Minnesota 55402  
Attention: Judith T. Murphy  
Telephone: (612) 303-0783

You will not be charged for any of these documents that you request. United shareholders requesting documents should do so by [ ] in order to receive them before the meetings.

See "Where You Can Find More Information" on page 150.

**You should rely only on the information contained or incorporated by reference into this document to vote on the merger agreement. No one has been authorized to provide you with information that is different from that contained in, or incorporated by reference into, this document. This document is dated [ ]. You should not assume that the information contained in, or incorporated by reference into, this document is accurate as of any date other than that date. Neither our mailing of this document to United shareholders nor the issuance by U.S. Bancorp of common stock in connection with the merger will create any implication to the contrary.**

---

## TABLE OF CONTENTS

QUESTIONS AND ANSWERS ABOUT THE SPECIAL MEETING AND THE MERGER	1
SUMMARY	3
SELECTED CONSOLIDATED HISTORICAL FINANCIAL DATA OF UNITED	8
SELECTED CONSOLIDATED HISTORICAL FINANCIAL DATA OF U.S. BANCORP	9
COMPARATIVE PER SHARE DATA	10
CAUTIONARY STATEMENT REGARDING FORWARD-LOOKING STATEMENTS	11
THE UNITED SPECIAL MEETING	13
Date, Time and Place	13
Matters to Be Considered	13
Proxies	13
Solicitation of Proxies	14
Record Date	14
Quorum and Vote Required	14
Voting by Telephone or the Internet	14
Voting by Directors and Executive Officers	15
Other Business	15
THE MERGER	16
Structure	16
Background of the Merger	16
United's Reasons for the Merger; Recommendation of United's Board of Directors	19
Opinion of United's Financial Advisor	21
U.S. Bancorp's Reasons for the Merger	28
Certain Executive Officers and Directors Have Financial Interests in the Merger	29
Regulatory Matters	32
Material U.S. Federal Income Tax Consequences of the Merger	33
Accounting Treatment	36
Board of Directors and Management of U.S. Bancorp Following Completion of the Merger	36
Exchange of Certificates in the Merger	36
Treatment of United Options	37
Fractional Shares	37
Resales of U.S. Bancorp Stock by Affiliates	37
Public Trading Markets	37
Appraisal Rights	37
THE MERGER AGREEMENT	38
The Merger	38
Completion of the Merger	38
Conditions to Completion of the Merger	38
No Solicitation	39
Termination	40
Termination Fee	41
Dividends	42
Transition	42
Other Covenants and Agreements	43
Representations and Warranties	45
Employee Benefit Matters	46
Expenses and Fees	47
Amendment or Waivers	47
Support Agreement	47
INFORMATION ABOUT UNITED	48
Business	48
Property	62

Edgar Filing: US BANCORP \DE\ - Form S-4

Legal Proceedings	62
Market For United's Common Equity And Related Stockholder Matters And Issuer Purchases Of Equity Securities	63
Changes in and Disagreements with Accountants	63
UNITED UNAUDITED FINANCIAL STATEMENTS FOR THE NINE MONTHS ENDED SEPTEMBER 30, 2006	64
Unaudited Consolidated Condensed Statements of Financial Condition	64
Unaudited Consolidated Condensed Statements of Income	65
Unaudited Consolidated Condensed Statements of Cash Flows	66
Notes to Unaudited Consolidated Condensed Financial Statements	67
Management's Discussion and Analysis of Financial Condition and Results of Operations	73
Quantitative and Qualitative Disclosures About Market Risk	81
UNITED AUDITED FINANCIAL STATEMENTS FOR THE YEAR ENDED DECEMBER 31, 2005	83
Report of Independent Registered Public Accounting Firm	83
Independent Auditor's Report	84
Consolidated Statements of Financial Condition	85
Consolidated Statements of Income	86
Consolidated Statements of Stockholders' Equity and Comprehensive Income	87
Consolidated Statements of Cash Flows	88
Notes to Consolidated Financial Statements	90
Management's Discussion and Analysis of Financial Condition and Results of Operations	115
INFORMATION ABOUT U.S. BANCORP	136
DESCRIPTION OF U.S. BANCORP CAPITAL STOCK	137
COMPARATIVE MARKET PRICES AND DIVIDENDS	140
COMPARISON OF SHAREHOLDERS' RIGHTS	141
LEGAL MATTERS	150
EXPERTS	150
WHERE YOU CAN FIND MORE INFORMATION	150
<b>ANNEXES</b>	

ANNEX A	Agreement and Plan of Merger, between and among U.S. Bancorp, Cascade Acquisition Corporation and United Financial Corp., dated as of November 6, 2006
ANNEX B	Support Agreement, dated as of November 6, 2006, between United Financial Corp. and John M. Morrison
ANNEX C	Opinion of Howe Barnes Hoefer & Arnett, dated as of November 6, 2006



**QUESTIONS AND ANSWERS ABOUT THE SPECIAL MEETING AND THE MERGER**

**Q: What Am I Being Asked To Vote On?**

A: United shareholders are being asked to approve and adopt a merger agreement entered into between U.S. Bancorp, Cascade Acquisition Corporation, a wholly owned subsidiary of U.S. Bancorp formed for the purpose of the merger, and United Financial Corp. In the merger, Cascade Acquisition Corporation will be merged with and into United Financial Corp., and United Financial Corp. will survive the merger as a direct, wholly owned subsidiary of U.S. Bancorp.

**Q: Why Is The United Board of Directors Recommending The Merger?**

A: The United board believes that the merger is advisable, fair to and in the best interest of United and its shareholders.

**Q: Why Is My Vote Important?**

A: The affirmative vote of the holders of at least a majority of the outstanding shares of United is required to approve and adopt the merger agreement. Accordingly, if a United shareholder fails to vote or abstains, this will have the same effect as a vote against approval and adoption of the merger agreement.

**Q: What Will I Receive For My United Common Stock If The Merger Is Completed?**

A: You will receive 0.6825 shares of U.S. Bancorp common stock for each of your shares of United common stock, and cash in lieu of any fractional share of U.S. Bancorp common stock.

**Q: What Will I Receive For My United Stock Options If The Merger Is Completed?**

A: For each share of United common stock subject to a stock option, you will receive a cash payment equal to the excess, if any, of the cash value at the completion of the merger of 0.6825 shares of U.S. Bancorp common stock over the exercise price of the stock option, less any applicable withholding tax and without interest.

**Q: When Do You Expect To Complete The Merger?**

A: We are working to complete the merger as quickly as possible. We cannot complete the merger until a number of conditions are satisfied, including approval of the merger by our shareholders and by the Board of Governors of the Federal Reserve System. We expect to complete the merger in the first quarter of 2007, assuming these and other approvals are received.

**Q: Do I Have Appraisal Rights?**

A: No. Under Minnesota law, United's state of incorporation, United shareholders do not have appraisal rights in connection with the merger.

**Q: What Do I Need To Do Now?**

A: After you have carefully read this document, indicate on your proxy card how you want your shares to be voted. Then complete, sign, date and mail your proxy card in the enclosed postage paid return envelope as soon as possible. Alternatively, you may vote by

telephone or the internet. This will enable your shares to be represented and voted at the United special meeting.

**Q: If My Shares Are Held In Street Name By My Broker, Will My Broker Automatically Vote My Shares For Me?**

A: No. Without instructions from you, your broker will not be able to vote your shares. You should instruct your broker to vote your shares, following the directions your broker provides. Please check the voting form used by your broker to see if it offers telephone or internet voting.

**Q: What If I Fail To Instruct My Broker?**

A: If you fail to instruct your broker to vote shares held in "street name", the resulting broker non-vote will have the same effect as a vote against approval and adoption of the merger agreement.

**Q: Can I Change My Vote?**

A: Yes. If you have not voted through your broker, there are three ways you can change your vote after you have submitted your proxy (whether by mail, telephone or the Internet):

First, you may send a written notice to the Chairman of United, stating that you would like to revoke your proxy.

Second, you may complete and submit a new proxy card or vote again by telephone or the internet. Your latest vote actually received by United, as the case may be, before the special meeting will be counted, and any earlier votes will be revoked.

Third, you may attend the United special meeting and vote in person. Any earlier proxy will thereby be revoked. However, simply attending the meeting without voting will not revoke an earlier proxy you may have given.

If you have instructed a broker to vote your shares, you must follow the directions you receive from your broker in order to change or revoke your vote.

**Q: Should I Send In My Share Certificates Now?**

A: **No.** Please do **NOT** send in your share certificates at this time. After the merger is completed, you will be provided with a letter of transmittal explaining what you must do to exchange your United share certificates for merger consideration.

**Q: When Do You Expect To Complete The Merger?**

A: We currently expect to complete the merger in the first quarter of 2007. However, we cannot assure you when or if the merger will occur. We must first obtain the approvals of United shareholders at the special meetings and the necessary regulatory approvals.

**Q: Whom Should I Call With Questions?**

A: If you have questions about the merger or the special meeting or you need additional copies of this document, or if you have questions about the process for voting or if you need a replacement proxy card, you should contact:

Kevin P. Clark  
Telephone: (406) 727-6106

**Q: Where Can I Find More Information About The Companies?**

A: You can find more information about U.S. Bancorp and United from the various sources described under "Where You Can Find More Information."

**SUMMARY**

**This summary highlights selected information from this document. It does not contain all of the information that may be important to you. We urge you to read carefully the entire document and the other documents to which we refer in order to understand fully the merger and the related transactions. In addition, we incorporate by reference into this document important business and financial information about U.S. Bancorp. You may obtain the information incorporated by reference into this document without charge by following the instructions in the section entitled "Where You Can Find More Information" on page 150. Each item in this summary refers to the page of this document on which that subject is discussed in more detail.**

**United Will Become a Wholly Owned Subsidiary of US Bancorp (Page 16)**

We encourage you to read the merger agreement, which is attached as **Annex A** to this document. The merger agreement provides that Cascade Acquisition Corporation, a wholly owned subsidiary of U.S. Bancorp formed for the purpose of the merger which we sometimes refer to as "merger subsidiary", will be merged with and into United. United will survive the merger as a direct, wholly owned subsidiary of U.S. Bancorp, and the separate corporate existence of merger subsidiary shall cease.

**What You Will Receive in the Merger (Page 16)**

Upon completion of the merger, each United shareholder will receive 0.6825 of shares of U.S. Bancorp common stock for each share of United common stock held immediately prior to the merger. We sometimes refer to this ratio as the "exchange ratio." The aggregate number of shares of U.S. Bancorp common stock to which a United shareholder will be entitled upon completion of the merger will equal 0.6825 multiplied by the number of shares of United common stock held by that United shareholder. However, U.S. Bancorp will not issue any fractional shares. United shareholders entitled to a fractional share will instead receive an amount in cash equal to the fraction of a whole share of U.S. Bancorp common stock to which such shareholder would otherwise be entitled multiplied by the average closing sale price of U.S. Bancorp common stock on the five New York Stock Exchange, or NYSE, trading days immediately prior to the date on which the merger is completed. As an example, a holder of 100 shares of United common stock would receive 68 shares of U.S. Bancorp common stock and an amount of cash equal to the product of 0.25 and the average closing sale price of U.S. Bancorp common stock on the five NYSE trading days prior to the date on which the merger is completed.

**The market prices of both United common stock and U.S. Bancorp common stock will fluctuate prior to the merger. You should obtain current stock price quotations for United common stock and U.S. Bancorp common stock.**

**The United Board of Directors Unanimously Recommends that You Vote "FOR" the Approval and Adoption of The Merger Agreement (Page 19)**

The board of directors of United believes that the merger is in the best interests of United and its shareholders and has unanimously approved the merger agreement. For the factors considered by the United board of directors in reaching its decision to approve the merger agreement, see the section entitled "The Merger United's Reasons for the Merger; Recommendation of United's Board of Directors."

**United's Financial Advisor Has Provided an Opinion to the United Board of Directors as to the Fairness of the Exchange Ratio, from a Financial Point of View, to United Shareholders (Page 21)**

In deciding to approve the merger, the United board of directors considered the opinion of its financial advisor, Howe Barnes Hoefler & Arnett, which we sometimes refer to as Howe Barnes, which

was given to the United board of directors on November 6, 2006, that, as of the date of such opinion and based upon and subject to the assumptions, qualifications and limitations described in the opinion, the exchange ratio pursuant to the merger agreement was fair from a financial point of view to the holders of United common stock. A copy of this opinion is attached to this document as **Annex C**. United shareholders should read the opinion completely and carefully to understand the assumptions made, matters considered and limitations on the review undertaken by Howe Barnes in providing its opinion.

**Certain Executive Officers and Directors Have Financial Interests in the Merger (Page 29)**

Some members of United's management and the United Board of Directors have interests in the merger that are in addition to or different from their interests as United shareholders. These interests exist because of rights they may have under existing supplemental retirement agreements with United or its subsidiaries and United's 2000 Long-Term Incentive and Stock Option Plan, and, in the case of Kevin Clark and Steven Feurt, pursuant to the terms of retention and noncompetition agreements with United and U.S. Bancorp entered into in connection with the merger agreement. The United Board of Directors was aware of these interests and considered them in approving the merger agreement and the merger.

**The Largest Shareholder of United Has Agreed to Vote in Favor of the Merger (Page 47 and Annex B)**

As in inducement for U.S. Bancorp to enter into the merger agreement, the largest shareholder of United, John M. Morrison, has agreed with United that the shares of United that he beneficially owns will be voted in favor of the merger and that he will not support any other merger proposal by a third party. Because the shares subject to this support agreement represent approximately [ ]% of the outstanding shares of United common stock as of the record date, this support agreement may have the effect of discouraging a competing offer to acquire United.

**Regulatory Approvals We Must Obtain for the Merger (Page 32)**

We cannot complete the merger unless we file an application and obtain the prior approval of the Board of Governors of the Federal Reserve System or receive a waiver from the application requirement. We have made or will make the necessary filings with the Federal Reserve Board. We also have made or will make filings with various state banking departments, antitrust authorities and several other regulatory agencies.

Although we currently believe we should be able to obtain these regulatory approvals in a timely manner, we cannot be certain when or if we will obtain them or, if obtained, whether they will contain terms, conditions or restrictions not currently contemplated that will be detrimental to the combined company after the completion of the merger.

**Completion of the Merger is Subject to Satisfying Several Conditions (Page 38)**

United's and U.S. Bancorp's respective obligations to complete the merger are subject to the fulfillment or waiver of certain conditions, including:

the approval and adoption of the merger agreement by United shareholders;

the receipt of governmental and regulatory approvals;

the receipt of all other notices, consents and waivers from third parties, except as would not reasonably be expected to have a material adverse effect on United or U.S. Bancorp;

the absence of any judgment or law prohibiting or making illegal the merger;

## Edgar Filing: US BANCORP \DE\ - Form S-4

the effectiveness of the registration statement pursuant to which the U.S. Bancorp common stock will be registered;

the authorization for listing by the NYSE of the shares of U.S. Bancorp common stock to be issued in connection with the merger;

the truth and correctness of the other party's representations and warranties, subject to the standard of materiality in the merger agreement;

the other party's performance in all material respects of all the obligations required to be performed by it under the merger agreement; and

the receipt by each party from its legal advisor of a written legal opinion with respect to certain tax matters.

U.S. Bancorp's obligation to complete the merger is subject to the following additional conditions:

the absence of any condition to any regulatory approval of the merger that could have a material adverse effect on United or U.S. Bancorp, in each case as measured on a scale relative to United; and

the continued employment of certain senior executives of United, and the absence of any notice of termination from these executives prior to the completion of the merger.

We cannot be certain when, or if, the conditions to the merger will be satisfied or waived, or that the merger will be completed.

### **When We Can Terminate the Merger Agreement (Page 40)**

United and U.S. Bancorp may agree in writing to terminate the merger agreement before completing the merger, even after approval and adoption of the merger agreement by United shareholders, if a majority of the board of directors of each of United and U.S. Bancorp votes to do so.

In addition, either U.S. Bancorp or United may decide to terminate the merger agreement in various circumstances, including the following:

if there is an uncured breach of the other party's representations, warranties or covenants that would result in the failure of the related closing conditions;

if any of the required regulatory approvals are denied and the denial is final and nonappealable, or any governmental entity enjoins or prohibits the merger and the injunction or prohibition is final and nonappealable;

if the merger has not been completed by June 30, 2007; or

if holders of shares representing a majority of the common stock of United fail to approve the merger at the special meeting.

In addition, U.S. Bancorp may terminate the merger agreement if United fails to recommend approval of the merger to its shareholders or breaches its non-solicitation covenant or its obligation to use reasonable best efforts to obtain its shareholders' approval, and United may terminate the merger agreement if the U.S. Bancorp share price declines to below \$25.18, the percentage decline is at least 20 percentage points greater than the decline of the PHLX/KBW Bank Sector Index and U.S. Bancorp does not elect to increase the exchange ratio based on a formula prescribed in the merger agreement.

**You Do Not Have Statutory Appraisal Rights in the Merger (Page 37)**

Under Minnesota law, United shareholders are not entitled to appraisal rights in connection with the merger.

**United Special Meeting (Page 13)**

The United special meeting will be held on [ ], at [ ] local time, at [ ]. At the United special meeting, United shareholders will be asked:

to approve and adopt the merger agreement;

to approve the adjournment of the United special meeting, if necessary or appropriate, to solicit additional proxies; and

to act on such other business as may properly come before the United special meeting.

*Record Date.* United shareholders may cast one vote at the United special meeting for each share of United common stock that was owned at the close of business on [ ]. At that date, there were [ ] shares of United common stock entitled to be voted at the special meeting.

As of the United record date, directors and executive officers of United and their affiliates had the right to vote [ ] shares of United common stock, or [ ]% of the outstanding United common stock entitled to be voted at the special meeting.

*Required Vote.* To approve and adopt the merger agreement, the holders of a majority of the outstanding shares of United common stock entitled to vote must vote in favor of the approval and adoption of the merger agreement. A United shareholder's failure to vote, a broker non-vote or an abstention will have the same effect as a vote against the approval and adoption of the merger agreement.

**The Merger is Intended to be Generally Tax-Free to United Shareholders (Page 33)**

The merger is intended to qualify as a tax-free reorganization for U.S. federal income tax purposes, and assuming the merger will so qualify, holders of United common stock generally will not recognize any gain or loss for U.S. federal income tax purposes on the exchange of their common stock for U.S. Bancorp common stock in the merger, except for any gain or loss that may result from the receipt by United shareholders of cash instead of a fractional share of U.S. Bancorp common stock. It is a condition to our respective obligations to complete the merger that U.S. Bancorp and United each receives a legal opinion that the merger will so qualify.

To review the tax consequences to United shareholders in greater detail, see "The Merger Material U.S. Federal Income Tax Consequences of the Merger" beginning on page 33.

**Comparative Market Prices and Dividends (Page 140)**

United common stock is reported on the Nasdaq Global Market under the symbol "UBMT." U.S. Bancorp common stock is quoted on the New York Stock Exchange under the symbol "USB." The following table sets forth the closing sale prices per share of United common stock and U.S. Bancorp common stock on November 3, 2006, the last trading day before we announced the merger, and on [ ], the last practicable trading day before the distribution of this document.

	United Common Stock	U.S. Bancorp Common Stock
November 3, 2006	\$ 20.75	\$ 33.57
[ ]	\$ [ ]	\$ [ ]



**Our Companies (Pages 48 and 136)**

*United Financial Corp.*

United Financial Corp. is a bank holding company headquartered in Great Falls, Montana, with operations in 12 Montana communities. United was organized as a Minnesota corporation in 1996. United's banking business in Montana is conducted through its wholly-owned subsidiary, Heritage Bank, a Montana corporation established in 1923. United had assets of approximately \$418 million, deposits of approximately \$311 million and stockholders' equity of approximately \$33 million at September 30, 2006.

United's principal offices are located at 120 First Avenue North, Great Falls, Montana 59401, and its telephone number is (406) 727-6106.

*U.S. Bancorp*

U.S. Bancorp is a multi-state financial holding company headquartered in Minneapolis, Minnesota. U.S. Bancorp was incorporated in Delaware in 1929 and operates as a financial holding company and a bank holding company under the Bank Holding Company Act of 1956. U.S. Bancorp provides a full range of financial services, including lending and depository services, cash management, foreign exchange and trust and investment management services. It also engages in credit card services, merchant and automated teller machine ("ATM") processing, mortgage banking, insurance, brokerage and leasing.

U.S. Bancorp's banking subsidiaries are engaged in the general banking business, principally in domestic markets. The subsidiaries range in size from \$28 million to \$134 billion in deposits and provide a wide range of products and services to individuals, businesses, institutional organizations, governmental entities and other financial institutions. Commercial and consumer lending services are principally offered to customers within the Company's domestic markets, to domestic customers with foreign operations and within certain niche national venues. Lending services include traditional credit products as well as credit card services, financing and import/export trade, asset-backed lending, agricultural finance and other products. Leasing products are offered through bank leasing subsidiaries. Depository services include checking accounts, savings accounts and time certificate contracts. Ancillary services such as foreign exchange, treasury management and receivable lock-box collection are provided to corporate customers. U.S. Bancorp's bank and trust subsidiaries provide a full range of asset management and fiduciary services for individuals, estates, foundations, business corporations and charitable organizations.

U.S. Bancorp had assets of approximately \$217 billion, deposits of approximately \$121 billion and stockholders' equity of approximately \$21 billion at September 30, 2006.

U.S. Bancorp's principal executive offices are located at 800 Nicollet Mall, Minneapolis, Minnesota 55402, and its telephone number is (651) 466-3000.

## SELECTED CONSOLIDATED HISTORICAL FINANCIAL DATA OF UNITED

Set forth below are highlights from United's consolidated financial data at or for the years ended December 31, 2001 through 2005, and the nine months ended September 30, 2005 and September 30, 2006. You should read this information in conjunction with United's consolidated financial statements and related notes, as well as the section entitled "Management's Discussion and Analysis of Financial Condition and Results of Operations", included in United's Annual Report on Form 10-K for the year ended December 31, 2005, and quarterly report on Form 10-Q for the period ended September 30, 2006, which are incorporated by reference in this document and from which this information is derived. See "Where You Can Find More Information" on page 150.

	As of and for the nine months ended September 30,		As of and for the year ended December 31,				
	2006	2005	2005	2004	2003	2002	2001
(Dollars and shares in thousands, except per share data)							
<b>Condensed Income Statement</b>							
Net interest income	\$ 10,836	\$ 10,082	\$ 14,132	\$ 13,012	\$ 11,853	\$ 10,331	\$ 9,598
Noninterest income	3,585	3,640	4,549	4,185	6,166	4,647	4,017
Securities gains, net		1	1	242	18	1	125
Total net revenue	14,421	13,723	18,682	17,439	18,037	14,979	13,740
Noninterest expense	9,036	8,663	11,787	11,089	11,492	9,747	8,795
Provision for credit losses	175	150	230	70	778	1,115	1,387
Income from continuing operations before taxes	5,210	4,910	6,665	6,280	5,767	4,117	3,558
Applicable income taxes	1,990	1,860	2,525	2,362	1,938	1,562	1,411
Income from continuing operations	3,220	3,050	4,140	3,918	3,829	2,555	2,147
Discontinued operations (after-tax)					891	400	228
Net income	\$ 3,220	\$ 3,050	\$ 4,140	\$ 3,918	\$ 4,720	\$ 2,955	\$ 2,375
<b>Per Common Share</b>							
Earnings per share from continuing operations	\$ 1.05	\$ .99	\$ 1.35	\$ 1.29	\$ 1.26	\$ .84	\$ .68
Diluted earnings per share from continuing operations	1.02	.97	1.32	1.25	1.22	.83	.68
Earnings per share	1.05	.99	1.35	1.29	1.55	.97	.75
Diluted earnings per share	1.02	.97	1.32	1.25	1.50	.96	.75
Dividends declared per share	.69	.67	.90	1.66	.72	.53	.51
Book value per share	10.79	10.33	10.41	10.06	10.63	10.00	9.38
Market value per share	21.10	20.00	20.75	19.2	21.08	11.73	9.20
Average common shares outstanding	3,073	3,058	3,061	3,043	3,050	3,048	3,145
Average diluted common shares outstanding	3,147	3,145	3,147	3,143	3,139	3,085	3,155
<b>Financial Ratios</b>							
Return on average assets	1.06%	1.12%	1.13%	1.18%	1.51%	.95%	.78%
Return on average common equity	13.4	13.2	13.4	12.7	15.0	10.1	8.2
Net interest margin	3.85	4.03	4.16	4.22	4.03	3.57	3.36
Efficiency ratio (a)	62.7	63.1	63.1	63.6	63.7	65.1	64.0
<b>Average Balances</b>							
Loans	\$ 323,255	\$ 280,913	\$ 286,726	\$ 251,140	\$ 219,011	\$ 210,961	\$ 216,315
Loans held for sale	6,526	6,903	7,386	5,372	12,249	8,667	6,208
Investment securities	42,649	40,535	35,858	40,133	40,083	48,073	50,960
Earning assets	375,245	334,005	339,636	308,505	292,975	289,272	285,570
Assets	404,051	361,600	367,618	331,191	312,870	310,656	304,590
Noninterest-bearing deposits	50,399	45,805	47,618	42,717	36,821	30,679	27,519
Deposits	257,210	222,286	229,964	199,878	195,728	191,108	181,348
Shareholders' equity	32,133	30,792	31,002	30,773	31,557	29,389	28,935
<b>Period End Balances</b>							
Loans and loans held for sale	\$ 340,477	\$ 310,589	\$ 315,899	\$ 270,797	\$ 231,062	\$ 224,164	\$ 222,402
Allowance for credit losses	3,896	3,682	3,751	3,708	3,755	3,113	2,794
Investment securities	39,641	32,407	35,359	38,949	43,279	43,526	53,484
Assets	418,071	380,937	389,547	347,140	304,817	378,073	382,823
Deposits	311,116	302,831	303,691	258,334	227,514	225,230	223,703
Long-term debt	68,558	42,305	49,385	55,385	41,889	49,787	63,103
Shareholders' equity	33,183	31,659	31,978	30,628	32,381	30,476	28,597
<b>Regulatory capital ratios</b>							
Tier 1 capital	9.8%	10.6%	10.2%	11.1%	13.4%	11.4%	10.7%
Total risk-based capital	10.9	11.8	11.3	12.3	14.7	12.6	11.9

Edgar Filing: US BANCORP \DE\ - Form S-4

	As of and for the nine months ended September 30,		As of and for the year ended December 31,				
Leverage	8.4	8.8	8.7	9.3	10.9	8.5	8.1

(a) Computed as noninterest expense divided by the sum of net interest income and noninterest income excluding securities gains (losses), net.

## SELECTED CONSOLIDATED HISTORICAL FINANCIAL DATA OF U.S. BANCORP

Set forth below are highlights from U.S. Bancorp's consolidated financial data at or for the years ended December 31, 2001 through 2005, and the nine months ended September 30, 2005 and September 30, 2006. You should read this information in conjunction with U.S. Bancorp's consolidated financial statements and related notes, as well as the section entitled "Management's Discussion and Analysis", included in U.S. Bancorp's Annual Report on Form 10-K for the year ended December 31, 2005, and quarterly report on Form 10-Q for the quarterly period ended September 30, 2006, which are incorporated by reference in this document and from which this information is derived. See "Where You Can Find More Information" on page 150.

	As of and for the nine months ended September 30,		As of and for the year ended December 31,				
	2006	2005	2005	2004	2003	2002	2001
(Dollars and shares in millions, except per share data)							
<b>Condensed Income Statement</b>							
Net interest income (taxable-equivalent basis)(a)	\$ 5,095	\$ 5,303	\$ 7,088	\$ 7,140	\$ 7,217	\$ 6,847	\$ 6,405
Noninterest income	5,114	4,556	6,151	5,624	5,068	4,911	4,340
Securities gains (losses), net	3	(57)	(106)	(105)	245	300	329
Total net revenue	10,212	9,802	13,133	12,659	12,530	12,058	11,074
Noninterest expense	4,568	4,399	5,863	5,785	5,597	5,740	6,149
Provision for credit losses	375	461	666	669	1,254	1,349	2,529
Income from continuing operations before taxes	5,269	4,942	6,604	6,205	5,679	4,969	2,396
Taxable-equivalent adjustment	34	23	33	29	28	33	54
Applicable income taxes	1,678	1,573	2,082	2,009	1,941	1,708	818
Income from continuing operations	3,557	3,346	4,489	4,167	3,710	3,228	1,524
Discontinued operations (after-tax)					23	(23)	(45)
Cumulative effect of accounting change (after-tax)						(37)	
Net income	\$ 3,557	\$ 3,346	\$ 4,489	\$ 4,167	\$ 3,733	\$ 3,168	\$ 1,479
<b>Per Common Share</b>							
Earnings per share from continuing operations	\$ 1.98	\$ 1.82	\$ 2.45	\$ 2.21	\$ 1.93	\$ 1.68	\$ .79
Diluted earnings per share from continuing operations	1.95	1.80	2.42	2.18	1.92	1.68	.79
Earnings per share	1.98	1.82	2.45	2.21	1.94	1.65	.77
Diluted earnings per share	1.95	1.80	2.42	2.18	1.93	1.65	.76
Dividends declared per share	.99	.90	1.230	1.020	.855	.780	.750
Book value per share	11.30	10.93	11.07	10.52	10.01	9.62	8.58
Market value per share	33.22	28.08	29.89	31.32	29.78	21.22	20.93
Average common shares outstanding	1,784	1,836	1,831	1,887	1,924	1,916	1,928
Average diluted common shares outstanding	1,809	1,862	1,857	1,913	1,936	1,925	1,940
<b>Financial Ratios</b>							
Return on average assets	2.24%	2.22%	2.21%	2.17%	1.99%	1.84%	.89%
Return on average common equity	23.7	22.5	22.5	21.4	19.2	18.3	9.0
Net interest margin (taxable-equivalent basis)	3.68	4.00	3.97	4.25	4.49	4.65	4.46
Efficiency ratio(b)	44.7	44.6	44.3	45.3	45.6	48.8	57.2
<b>Average Balances</b>							
Loans	\$ 141,059	\$ 131,432	\$ 133,105	\$ 122,141	\$ 118,362	\$ 114,453	\$ 118,177
Loans held for sale	2,062	1,723	1,795	1,608	3,616	2,644	1,911
Investment securities	39,858	42,308	42,103	43,009	37,248	28,829	21,916
Earning assets	185,075	176,851	178,425	168,123	160,808	147,410	143,501
Assets	212,188	201,505	203,198	191,593	187,630	171,948	165,944
Noninterest-bearing deposits	28,666	29,003	29,229	29,816	31,715	28,715	25,109
Deposits	120,456	120,552	121,001	116,222	116,553	105,124	104,956
Short-term borrowings	23,398	18,313	19,382	14,534	10,503	10,116	11,679
Long-term debt	40,462	36,016	36,141	35,115	33,663	32,172	26,088
Shareholders' equity	20,543	19,911	19,953	19,459	19,393	17,273	16,426
<b>Period End Balances</b>							

Edgar Filing: US BANCORP \DE\ - Form S-4

	As of and for the nine months ended September 30,		As of and for the year ended December 31,					
Loans	\$ 144,408	\$ 136,627	\$ 137,806	\$ 126,315	\$ 118,235	\$ 116,251	\$ 114,405	
Allowance for credit losses	2,256	2,258	2,251	2,269	2,369	2,422	2,457	
Investment securities	39,520	41,516	39,768	41,481	43,334	28,488	26,608	
Assets	216,855	206,895	209,465	195,104	189,471	180,027	171,390	
Deposits	120,961	120,795	124,709	120,741	119,052	115,534	105,219	
Long-term debt	41,230	36,257	37,069	34,739	33,816	31,582	28,542	
Shareholders' equity	20,926	19,864	20,086	19,539	19,242	18,436	16,745	
Regulatory capital ratios								
Tangible common equity	5.4%	6.2%	5.9%	6.4%	6.5%	5.7%	5.9%	
Tier 1 capital	8.8	8.4	8.2	8.6	9.1	8.0	7.8	
Total risk-based capital	13.0	12.8	12.5	13.1	13.6	12.4	11.9	
Leverage	8.3	7.7	7.6	7.9	8.0	7.7	7.9	

(a) Interest and rates are presented on a fully taxable-equivalent basis utilizing a tax rate of 35 percent.

(b) Computed as noninterest expense divided by the sum of net interest income on a taxable-equivalent basis and noninterest income excluding securities gains (losses), net.

**COMPARATIVE PER SHARE DATA**

The following table sets forth for U.S. Bancorp common stock and United common stock certain historical, pro forma and pro forma-equivalent per share financial information. The pro forma and pro forma equivalent per share information gives effect to the merger as if the merger had been effective for the periods, or in the case of book value information as of the dates, presented. The pro forma data in the tables assumes that the merger is accounted for as an acquisition by U.S. Bancorp of United using the purchase method of accounting. See "The Merger Accounting Treatment" on page 36. The information in the following table is based on, and should be read together with, the historical financial information that we have presented in our prior filings with the Securities and Exchange Commission. See "Where You Can Find More Information". The pro forma information does not reflect anticipated financial benefits or integration costs that may arise as a result of the merger.

	<u>U.S. Bancorp Historical</u>	<u>United Historical</u>	<u>Pro Forma Combined</u>	<u>Per Equivalent U.S. Bancorp Share</u>
<b>NET INCOME:</b>				
For the year ended December 31, 2005:				
Basic	\$ 2.45	\$ 1.35	\$ 2.45	\$ 1.67
Diluted	\$ 2.42	\$ 1.32	\$ 2.42	\$ 1.65
For the nine months ended September 30, 2006:				
Basic	\$ 1.98	\$ 1.05	\$ 1.97	\$ 1.35
Diluted	\$ 1.95	\$ 1.02	\$ 1.95	\$ 1.33
<b>CASH DIVIDENDS DECLARED:</b>				
For the year ended December 31, 2005				
	\$ 1.23	\$ 0.90	\$ 1.23	\$ 0.84
For the nine months ended September 30, 2006				
	\$ 0.99	\$ 0.69	\$ 0.99	\$ 0.68
<b>BOOK VALUE:</b>				
As of December 31, 2005				
	\$ 11.07	\$ 10.41	\$ 11.07	\$ 7.56
As of September 30, 2006				
	\$ 11.30	\$ 10.79	\$ 11.31	\$ 7.72

**CAUTIONARY STATEMENT REGARDING FORWARD-LOOKING STATEMENTS**

This document contains or incorporates by reference a number of forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995 regarding U.S. Bancorp and United and may include statements for the period following the completion of the merger. Statements that are not historical or current facts, including statements about beliefs and expectations, are forward-looking statements. These statements often include the words "may," "could," "would," "should," "believes," "expects," "anticipates," "estimates," "intends," "plans," "targets," "potentially," "probably," "projects," "outlook" or similar expressions. These forward-looking statements cover, among other things, the benefits of the merger, including future financial and operating results, U.S. Bancorp's and United's plans, objectives, expectations and intentions and the future plans and prospects of United and U.S. Bancorp. Forward-looking statements involve inherent risks and uncertainties, and important factors could cause actual results to differ materially from those anticipated, including:

completion of the merger is dependent on, among other things, receipt of approval of United shareholders and regulatory approvals, the timing of which cannot be predicted with precision and that may not be received at all;

expected revenue synergies and cost savings from the merger may not be fully realized or realized within the expected time frame;

the integration of United's business and operations with those of U.S. Bancorp may take longer or be more costly than anticipated;

capital investments may not produce expected growth in earnings anticipated at the time of the expenditure;

the merger may be more expensive to complete than anticipated, including as a result of unexpected factors or events;

customer and employee relationships and business operations may be disrupted by the merger;

changes in general business and economic conditions;

changes in interest rates, legal and regulatory developments;

increased competition from both banks and non-banks;

changes in customer behavior and preferences;

changes in technology;

the effects of weather conditions in the geographic markets and business areas in which United and U.S. Bancorp operate;

the effects of other mergers or acquisitions and related integration; and

the effects of critical accounting policies and judgments.

Because such forward-looking statements are subject to assumptions and uncertainties, actual results may differ materially from those expressed or implied by such forward-looking statements. United shareholders are cautioned not to place undue reliance on such statements,

which speak only as of the date of this document or the date of any document incorporated by reference. All subsequent written and oral forward-looking statements concerning the merger or other matters addressed in this document and attributable to U.S. Bancorp, United or any person acting on their behalf are expressly qualified in their entirety by the cautionary statements contained or referred to in this section. Forward-looking statements speak only as of the date they are made, and neither United nor U.S. Bancorp undertakes any obligation to update them in light of new information or future events.



## Edgar Filing: US BANCORP \DE\ - Form S-4

For discussion of these and other risks that may cause actual results to differ from expectations, refer to U.S. Bancorp's Annual Report on Form 10-K for the year ended December 31, 2005, on file with the SEC, including the sections entitled "Risk Factors" and "Corporate Risk Profile," and to United's Annual Report on Form 10-K for the year ended December 31, 2005, on file with the SEC, including the section entitled "Risk Factors."

**THE UNITED SPECIAL MEETING**

**Date, Time and Place**

The United special meeting will be held on [ ] at [ ] local time at [ ].

**Matters to be Considered**

At the United Special Meeting, United shareholders will be asked to:

approve and adopt the merger agreement;

approve the adjournment of the United special meeting, if necessary or appropriate, to solicit additional proxies; and

transact such other business as may properly come before the special meeting or any adjournment or postponement of the meeting.

**Proxies**

You should complete and return the proxy card accompanying this document to ensure that your vote is counted at the United special meeting, regardless of whether you plan to attend the United special meeting. If you are a registered shareholder (that is, you hold stock certificates registered in your own name), you may also vote by telephone or through the internet, by following the instructions described on your proxy card. If your shares are held in nominee or "street name" you will receive separate voting instructions from your broker or nominee with your proxy materials. Although most brokers and nominees offer telephone and internet voting, availability and specific processes will depend on their voting arrangements. You can revoke the proxy at any time before the vote is taken at the United special meeting by submitting to Kevin P. Clark written notice of revocation or a properly executed proxy of a later date, or by attending the United special meeting and voting in person. Written notices of revocation and other communications about revoking United proxies should be addressed to:

United Financial Corp.  
120 First Avenue North  
Great Falls, Montana 59403  
Attention: Kevin P. Clark  
(406) 727-6106

If your shares are held in street name, you should follow the instructions of your broker regarding the revocation of proxies.

All shares represented by valid proxies that we receive through this solicitation, and that are not revoked, will be voted in accordance with the instructions on the proxy card. If you make no specification on your proxy card as to how you want your shares voted before signing and returning it, your proxy will be voted "**FOR**" approval and adoption of the merger agreement and "**FOR**" the proposal to adjourn the special meeting, if necessary or appropriate, to solicit additional proxies. The United board of directors is currently unaware of any other matters that may be presented for action at the United special meeting. If other matters properly come before the United special meeting, or at any adjournment or postponement thereof, we intend that shares represented by properly submitted proxies will be voted, or not voted, by and at the discretion of the persons named as proxies on the proxy card.

### Solicitation of Proxies

We will bear the entire cost of soliciting proxies from you. In addition to solicitation of proxies by mail, we will request that banks, brokers and other record holders send proxies and proxy material to the beneficial owners of United common stock and secure their voting instructions, if necessary. We will reimburse the record holders for their reasonable expenses in taking those actions. We have also made arrangements with [ ] to assist us in soliciting proxies and have agreed to pay them \$[ ] plus reasonable expenses for these services. If necessary, we may also use several of our regular employees, who will not be specially compensated, to solicit proxies from United shareholders, either personally or by telephone, telegram, facsimile or letter.

### Record Date

The United board of directors has fixed the close of business on [ ] as the record date for determining the United shareholders entitled to receive notice of and to vote at the United special meeting. At that time, [ ] shares of United common stock were outstanding, held by approximately [ ] holders of record. As of the record date, directors and executive officers of United and their affiliates had the right to vote [ ] shares of United common stock as of the record date, representing less than [ ]% of the shares entitled to vote at the United special meeting. United currently expects that its directors and executive officers will vote such shares "FOR" approval and adoption of the merger agreement.

### Quorum and Vote Required

The presence, in person or by properly executed proxy, of the holders of a majority of the outstanding shares of United common stock is necessary to constitute a quorum at the special meeting. Abstentions and broker non-votes will be counted solely for the purpose of determining whether a quorum is present.

Approval and adoption of the merger agreement requires the affirmative vote of the holders of a majority of the outstanding shares of United common stock entitled to vote at the United special meeting. Approval of the proposal relating to the adjournment of the special meeting, if necessary or appropriate, to solicit additional proxies requires that the votes cast in favor of the proposal exceed the votes cast in opposition. You are entitled to one vote for each share of United common stock you held as of the record date.

**Because the affirmative vote of the holders of a majority of the outstanding shares of United common stock entitled to vote at the United special meeting is required to approve and adopt the merger agreement, the failure to vote by proxy or in person will have the same effect as a vote against the merger agreement. Abstentions and broker non-votes also will have the same effect as a vote against the merger. Accordingly, the United board of directors urges United shareholders to complete, date and sign the accompanying proxy card and return it promptly in the enclosed postage-paid envelope, or to vote by telephone or the Internet.**

Abstentions, failures to vote and broker non-votes will have no effect on the vote to adjourn the special meeting, if necessary or appropriate, to solicit additional proxies.

### Voting by Telephone or the Internet

Many shareholders of United have the option to submit their proxies or voting instructions electronically by telephone or the Internet instead of submitting proxies by mail on the enclosed proxy card. Please note that there are separate arrangements for using the telephone and the Internet depending on whether your shares are registered in United's stock records in your name or in the name of a brokerage firm or bank. United shareholders should check their proxy card or the voting

instructions forwarded by their broker, bank or other holder of record to see which options are available.

United holders of record may submit their proxies:

by telephone, by calling the toll-free number indicated on their proxy card and following the recorded instructions; or

through the Internet, by visiting the website indicated on their proxy card and following the instructions.

#### **Voting by Directors and Executive Officers**

At U.S. Bancorp's request as an inducement for U.S. Bancorp to enter into the merger agreement and with the approval of United's board, in connection with the execution of the merger agreement, John Morrison, United's largest shareholder, entered into a support agreement pursuant to which he agreed to vote his shares of United common stock FOR approval and adoption of the merger agreement. The outstanding shares of common stock covered by the support agreement represent [ ]% of the outstanding shares of United common stock as of [ ], 2006, the latest practicable date before printing of this document.

On the record date, Mr. Morrison, together with the other directors and executive officers of United, including their affiliates, owned and were entitled to vote a total of [ ] shares of United common stock or approximately [ ]% of the shares of United common stock then outstanding. In addition to Mr. Morrison's contractual obligation each of these other individuals has advised United that he or she intends to vote all of his or her shares of United common stock FOR approval and adoption of the merger agreement.

#### **Other Business**

United is not currently aware of any business to be acted upon at the special meeting other than the matters discussed in this document. Under United's bylaws, except as required by law, no business may be brought before the special meeting other than the matters set forth in the notice of the special meeting, which is provided at the beginning of this document. If other matters do properly come before the special meeting, or at any adjournment or postponement thereof, United intends that shares of United common stock represented by properly submitted proxies will be voted by and at the discretion of the persons named as proxies on the proxy card in accordance with their best judgment.

## THE MERGER

The following discussion contains material information pertaining to the merger. This discussion is a summary only and may not contain all of the information that is important to you. A copy of the merger agreement is attached to this document as **Annex A** and is incorporated into this section by reference. We encourage you to read and review the merger agreement in its entirety as well as the discussion in this document.

### Structure

The merger agreement provides that Cascade Acquisition Corporation, a wholly owned subsidiary of U.S. Bancorp formed for the purpose of the merger, which we sometimes refer to as "merger subsidiary," will be merged with and into United. United will survive the merger as a direct, wholly owned subsidiary of U.S. Bancorp.

Each share of United common stock outstanding prior to the merger will be converted, upon completion of the merger, into the right to receive 0.6825 shares of the common stock of U.S. Bancorp. We sometimes refer to this ratio as the "exchange ratio." Shares of United common stock issued and outstanding immediately prior to the merger will be cancelled.

### Background of the Merger

For the past several years, the board of directors has been considering the costs and risks of remaining a public company. United has a relatively small shareholder base and there has been relatively little trading in its common stock. Over the last several years, United has been incurring increased accounting, legal and regulatory expenses related to its public reporting obligations which given its size and relatively small executive staff were becoming a larger burden. The increased regulatory burden was expected to put increasing pressure on United's operating performance and require significant management attention over the next several years. The board regularly discussed the fact that United was not enjoying some of the benefits typically enjoyed by public companies. United was not large enough to cost-effectively use the public markets to raise capital, and trading in United's common stock has been sufficiently infrequent that investors have reportedly had difficulty selling or buying shares of common stock.

At the same time the board has been looking for ways to grow United, including growing assets in Montana while preserving United's asset quality. The board began to discuss a number of strategic alternatives including de-registering under the Exchange Act, growing larger by acquiring other banks or merging with a larger institution. As United began its preparation for compliance with Section 404 of the Sarbanes-Oxley Act of 2002, it became clear that the process would require United to incur additional expense in engaging internal control consultants. At a May 2006 board meeting following the annual meeting of shareholders, the directors discussed United's financial condition and its prospects for future growth in assets, continued asset quality, operating performance and ability to continue paying dividends in light of these challenges. The board periodically discussed these concerns and the challenges on a confidential basis with Mr. Morrison, United's largest shareholder.

At a social function in June 2006, Mr. Morrison and Jack Grundhofer, former U.S. Bancorp chairman and chief executive officer, informally discussed banking and banking opportunities in Montana. Later in June, 2006, Mr. Weise, United's chairman, met in Minneapolis with Barry Martin, division president and John Elmore, executive vice president of U.S. Bancorp.

At the July 2006 board of directors meeting, Mr. Weise discussed the outlook for United's growth in assets and earnings, and challenges regarding increasing its dividend in the coming years. With these issues and increasing costs associated with Sarbanes-Oxley, Mr. Weise continued to discuss with board members and the executive management team strategic alternatives open to United.

On July 17, 2006, representatives of United and U.S. Bancorp met and continued discussing the possibility of a business combination between the two companies.

On August 11, 2006, the board of directors of United held a special meeting to discuss the possibility of a transaction with U.S. Bancorp and U.S. Bancorp's request to conduct a due diligence investigation of United beyond publicly available information. The board discussed United's prospects, shareholder liquidity issues and the risks and expense facing United as a small public company, as well as the potential strategic benefits of aligning with a larger financial institution. The board discussed the need to enter into a confidentiality agreement before permitting any due diligence investigation and the importance of maintaining confidentiality to avoid disruption to the business. At this meeting the board also heard from representatives of Lindquist & Vennum, P.L.L.P., United's outside counsel, who provided advice on the process and fiduciary duties of directors. The board established a special committee to consider a possible transaction with U.S. Bancorp. The special committee consisted of Mr. Weise, Mr. Morrison and Mr. Murray. The special committee was authorized to meet with counsel and engage an investment banker firm to render a fairness opinion if necessary in connection with a possible transaction.

On August 11, United and U.S. Bancorp entered into a confidentiality agreement. On August 14, several members of senior management of United traveled to Minneapolis and met with several members of senior management of U.S. Bancorp to discuss a possible transaction.

On August 18, United received a nonbinding letter of intent from U.S. Bancorp expressing an indication of interest in a possible stock for stock acquisition subject to various contingencies including due diligence, definitive documentation and Mr. Morrison's agreement to vote his shares in favor of the transaction. For the next several weeks, United provided due diligence information to U.S. Bancorp.

On September 11, U.S. Bancorp's outside counsel at Wachtell, Lipton, Rosen & Katz ("Wachtell Lipton") delivered a draft merger agreement and support agreement for Mr. Morrison to United. The draft merger and support agreement were provided to each of the directors.

On September 22, the board of directors met to discuss the merger agreement and support agreement. Representatives of Lindquist & Vennum and Mr. Morrison were present at the meeting. The board discussed, among other things, the financial aspects of the proposal, the merger structure, the treatment of options, the proposed covenants between signing and closing the transaction, the ability of United to receive bids from third parties, the necessity of a fairness opinion, the scope of the representations and warranties, and exceptions to such representations and warranties, conditions to closing, timing of a possible transaction, grounds for termination and amount of the break-up fee. The board instructed Lindquist & Vennum to prepare a revised draft merger agreement. The board also authorized Mr. Weise to engage an investment banker to potentially render a fairness opinion to the board in connection with a proposed transaction.

On September 29, representatives of Lindquist & Vennum delivered revised versions of the merger agreement and support agreement to U.S. Bancorp and its counsel at Wachtell Lipton. During the week of October 2-6, Mr. Weise interviewed investment bankers and received proposals from two firms. On October 5, U.S. Bancorp's counsel at Wachtell Lipton delivered a revised draft of the merger agreement and support agreement. This revised draft was distributed to the board of directors. On October 6, United engaged Howe, Barnes, Hofer & Arnett, Inc. a community bank and thrift-focused investment bank from Chicago.

On October 16, representatives of United and U.S. Bancorp again met to discuss the proposed transaction, and discuss integration of the two companies including retention of Mr. Clark and Mr. Feurt if an agreement could be reached. On October 23, 2006, Lindquist & Vennum delivered to U.S. Bancorp and its counsel at Wachtell Lipton revised versions of the merger agreement and support agreement. On October 24, Mr. Weise updated the directors on the status of the negotiations with

U.S. Bancorp, the exchange ratio, the treatment of options, the scope of the representations and warranties, the covenants between signing and closing, termination provisions and the amount and grounds for payment of the break-up fee.

For the next several days, United and its counsel continued to work on disclosure schedules to the merger agreement. On October 26, U.S. Bancorp's counsel at Wachtell Lipton delivered a revised draft of the merger agreement and support agreement to United that was distributed to the board of directors. On October 30, 2006, Wachtell Lipton delivered a revised draft of the merger agreement that was delivered to the directors together with draft disclosure schedules. On October 31, Lindquist & Vennum delivered a draft of United's disclosure schedules to U.S. Bancorp and Wachtell Lipton. Between November 1-3, United continued to revise the disclosure schedules. On November 2, United received a revised draft of the merger agreement and support agreement from Wachtell Lipton that the parties believed to be near final, and United finalized the disclosure schedules.

On November 2, the special committee met with representatives of Lindquist & Vennum present, and discussed the status of the negotiations, reviewed the draft merger agreement, support agreement and disclosure schedules. The special committee discussed, among other things, the exchange ratio, the representations and warranties, the treatment of options, covenants between signing and closing, receipt of a fairness opinion, termination provisions and the break-up fee, and retention agreements for Mr. Clark and Mr. Feurt and other employee benefits matters. The special committee also discussed timing and the possibility of reaching a definitive agreement. The special committee agreed to schedule a full board meeting on November 6 for the entire board to consider approving the transaction and definitive agreements.

On November 2-3, the parties worked on finalizing the merger agreement and disclosure schedules. On November 2, the directors received a draft book containing Howe Barnes financial analyses underlying its view concerning the fairness of the consideration to United's shareholders from a financial point of view. On November 3, the board of directors received revised drafts of the merger agreement, disclosure schedules, support agreement, draft resolutions and a memorandum from Lindquist & Vennum providing a summary of the merger agreement. On November 3, Mr. Clark and Mr. Feurt agreed to retention and non-competition agreements with United in connection with a possible business combination with U.S. Bancorp that would provide for aggregate compensation of \$130,000 and \$125,000 respectively to these executives in the two-year period following the closing of the merger.

On November 6, the board of directors met to consider the transaction and receive the opinion and analysis from Howe Barnes. Representatives of Lindquist & Vennum, certain of United's executive officers and representatives of Howe Barnes and Mr. Morrison were present. The board of directors received an updated report from Mr. Weise on United's prospects as a stand-alone company. Howe Barnes reviewed and analyzed for the board of directors, among other matters, the financial aspects of the proposal from U.S. Bancorp and its financial analyses of the valuation parameters of United. Howe Barnes reviewed with the board of directors its financial analysis of the consideration payable in the merger and rendered to the board its opinion dated November 6, 2006 that the consideration to be received by holders of United common stock in the merger is fair from a financial point of view to the holders of United common stock. Management and representatives of Lindquist & Vennum and Howe Barnes responded to numerous questions from the board of directors.

After conducting their presentation, representatives of Howe Barnes left the meeting and the board continued to discuss the transaction. The board of directors discussed, among other matters, the risks and benefits of the proposed transaction and reviewed the proposed transaction, as to both quantitative and qualitative terms, taking into account the information and analyses provided to the board. The board also reviewed alternatives to the proposed transaction, including United's prospects as an independent company. Representatives of Lindquist & Vennum reviewed for the board of

directors its fiduciary and other legal duties and also reviewed with the board of directors in detail the terms of the merger agreement and other legal aspects of the proposal by U.S. Bancorp. The board also discussed the support agreement that U.S. Bancorp requested from Mr. Morrison in connection with the merger agreement. The board discussed these matters with management and then the independent directors of the board met separately to discuss the proposed transaction. After further deliberation, the board of directors unanimously determined, in light of its anticipated determination to authorize entry into the proposed merger agreement, to establish a special committee of disinterested directors consisting of Mr. Murray, Mr. Bloemendahl and Mr. Madison to render certain anti-takeover provisions of Minnesota law inapplicable to the transaction and to U.S. Bancorp. The special committee of disinterested directors and the full board determined that the merger with U.S. Bancorp is advisable, fair to and in the best interests of United and its shareholders, and unanimously approved the merger, the merger agreement and support agreement. Additionally, the board unanimously resolved to recommend that United's shareholders approve and adopt the merger agreement. The board of directors also unanimously approved amendments to the stock option plan to give effect to certain provisions of the merger agreement.

In the afternoon of November 6, United and U.S. Bancorp executed the merger agreement. In connection with the execution of the merger agreement, John Morrison also entered into a support agreement requiring him, among other things, to vote his United shares in favor of the merger. In the late afternoon of November 6, 2006, U.S. Bancorp and United issued press releases announcing the merger.

#### **United's Reasons for the Merger; Recommendation of United's Board of Directors**

United's board of directors has unanimously determined that the terms of the merger agreement are advisable, fair to and in the best interests of United and its shareholders and has unanimously approved the merger agreement. **Accordingly, our board unanimously recommends that you vote FOR approval and adoption of the merger agreement.**

In reaching its decision to approve the merger agreement and to recommend that you vote to approve and adopt the merger agreement, United's board considered a number of factors, including the following:

- > knowledge of, and presentations by management and financial advisors regarding, United's business, operations, financial condition, earnings and business prospects (as well as the risks involved in achieving those prospects);
- > the challenges facing United in growing its business in its markets while preserving its asset quality and paying dividends;
- > the costs and risks of remaining a public company, United's relatively small shareholder base and relatively infrequent trading of United's common stock such that shareholders reportedly had difficulty selling or buying more shares of common stock;
- > the reputation and performance of U.S. Bancorp, the liquidity of its common stock, U.S. Bancorp's dividend payment history and United board's belief that there was a greater possibility in share price appreciation in U.S. Bancorp common stock compared to United common stock;
- > increased accounting, legal and regulatory expenses related to United's public reporting obligations, including those arising out of compliance with Section 404 of the Sarbanes-Oxley Act of 2002, which given United's size and relatively small executive staff, was becoming a larger burden combined with the fact that United and its shareholders were not enjoying the advantages of being a public company because United is not large enough to cost-effectively use the public markets to raise capital;



- > the fact that under the merger agreement United may continue to declare regular quarterly dividends provided that United shareholders will not receive more than one regular dividend payment for any single quarter (inclusive of any dividends paid by U.S. Bancorp after the completion of the merger), a special \$0.50 per share dividend prior to the completion of the merger, and possibly an additional dividend related to documented savings on particular merger-related expenses as agreed to with U.S. Bancorp;
- > the presentation and opinion of Howe, Barnes, Hoefler & Arnett on November 6, 2006, delivered to United's board to the effect that, as of November 6, 2006, and based upon and subject to assumptions made, procedures followed, matters considered, and limitations on the review undertaken in connection with the opinion as set forth therein, that the consideration to be received by holders of United common stock in the merger is fair from a financial point of view to such holders (see "The Merger Opinion of the United's Financial Advisor");
- > the financial terms of the merger, including the fact that the merger consideration, based on data as of November 1, 2006 and including the special dividend of \$.50 per share represents:
- a 217.9% premium of United's price to book value per share;
  - a 227.6% premium of United's price to tangible book value per share;
  - a multiple of 17.2 times United's latest 12-month earnings per share; and
  - a multiple of 15.8 times United's earnings per share for the quarter September 30, 2006 annualized.
- > United's right to terminate the merger agreement if the price of U.S. Bancorp's common stock drops by more than 25% in the period between signing and closing and the price decline of U.S. Bancorp common stock is also 20 percentage points greater than any decline of the PHLX/KBW Bank Index, subject to U.S. Bancorp's option to increase the exchange ratio based on a predetermined formula to restore sufficient value to bring the value to United shareholders to within this threshold;
- > the fact that the merger is expected to as a tax-free exchange of United common stock for U.S. Bancorp common stock for United shareholders not including fractional shares or dividends;
- > the potential shareholder value from other alternatives available, including the alternative of remaining a stand-alone, independent company, as well as the risks and uncertainties associated with those alternatives;
- > the terms of the merger agreement, as reviewed by our board with our legal advisors, including consideration of several specific provisions of the merger agreement, such as (a) the relative treatment of outstanding United shares and options to purchase United common stock and the risks associated with a fixed exchange ratio given potential fluctuations in U.S. Bancorp's stock, United's price-based termination right and U.S. Bancorp's fill right in certain circumstances; (b) the limited conditions to U.S. Bancorp's obligation to complete the merger; (c) the ability of United's board to terminate the merger agreement in the exercise of fiduciary duties under specified circumstances and upon payment of a termination fee (recognizing the possible effect that a termination fee has on competing transactions, but believing that U.S. Bancorp would not have entered into the merger agreement without such a fee provision and that the fee is reasonable for this size of a transaction); (d) the limited ability of U.S. Bancorp to terminate the agreement; and (e) the provisions related to employee benefits in the merger agreement; and
- > the likelihood of the merger being approved by the appropriate regulatory authorities.

## Edgar Filing: US BANCORP \DE\ - Form S-4

After considering these factors, United's board concluded that the right to receive 0.6825 shares of U.S. Bancorp common stock for every share of United common stock was an attractive price for United shareholders in comparison to the values that United might reasonably achieve in the foreseeable future as a stand-alone, independent company. United's board believed that this was particularly true in light of the risks and uncertainties involved in connection with the results that it could expect to achieve on its own. United's board also considered potential drawbacks or risks relating to the merger, including the following risks and factors:

the fact that the fixed exchange ratio and the attendant risk of U.S. Bancorp stock price fluctuation could cause United shareholders to receive less consideration if U.S. Bancorp's stock price declines in the period between signing and closing;

the fact that United has not actively solicited other offers and is prevented from soliciting other offers under the merger agreement, and the possibility that the \$2,800,000 termination fee payable to U.S. Bancorp under specified circumstances may discourage a competing acquisition proposal;

the risks and costs to United if the merger does not close, including possible stock price decline, the diversion of management and employee attention, potential employee attrition and the potential effect on business and customer relationships;

the fact that United officers and directors have certain interests in the merger that are in addition to their interests as shareholders of United, which had the potential to influence their views and actions in connection with the merger proposal, including generally, the retention and non-competition agreements with two of United's executive officers and existing agreements with Heritage Bank executives; and

the restrictions on the conduct of United's business prior to the consummation of the merger, requiring United to conduct its business subject to specific limitations, which may delay or prevent United from undertaking business opportunities that may arise pending completion of the merger.

United's board concluded, however, that these potential drawbacks and risks did not outweigh the benefits of the merger to United shareholders.

The foregoing discussion of the information and factors that United's board of directors reviewed in its consideration of the merger is not intended to be exhaustive, but is believed to include all of the material factors that United's board considered. In view of the variety of factors and the amount of information considered, United's board did not find it practicable to, and did not make specific assessments of, quantify or otherwise assign relative weights to the specific factors considered in reaching its determination. Although individual members of United's board may have assigned different weights to different factors, United's board made its determination after considering all of the factors as a whole and, overall, considered them to be favorable to, and to support its determination.

### **Opinion of United's Financial Advisor**

United's board of directors engaged Howe Barnes Hoefler & Arnett, Inc. to act as its financial advisor in connection with the merger with U.S. Bancorp. On November 6, 2006, Howe Barnes delivered its oral opinion to United's board of directors, subsequently confirmed in its written opinion as of that date, and based upon and subject to the assumptions made, matters considered and qualifications and limitations set forth in the written opinion, that the merger consideration to be paid by U.S. Bancorp pursuant to the merger agreement was fair from a financial point of view to holders of United common stock.

The full text of the written opinion of Howe Barnes Hoefler & Arnett, dated November 6, 2006, which sets forth the assumptions made, matters considered and qualifications and limitations on the review undertaken by Howe Barnes, is attached as **Annex C** to this document and is incorporated into this document by reference. The following summary of Howe Barnes opinion is qualified in its entirety by reference to the full text of the opinion. Shareholders of United are urged to read and should read the entire opinion carefully. Howe Barnes has consented to the inclusion in this document of its opinion dated November 6, 2006 and of the summary of that opinion set forth below.

In preparing its opinion to United's board of directors, Howe Barnes performed various financial and comparative analyses, including those described below. The summary set forth below does not purport to be a complete description of the analyses underlying Howe Barnes opinion or the presentation made by Howe Barnes to United's board of directors. The preparation of a fairness opinion is a complex analytic process involving various determinations as to the most appropriate and relevant methods of financial analysis and the application of those methods to the particular circumstances and, therefore, a fairness opinion is not readily susceptible to partial analysis or summary description. In arriving at its opinion, Howe Barnes did not attribute any particular weight to any analysis or factor considered by it, but rather made its determination as to fairness on the basis of its experience and professional judgment after considering the results of all of its analyses. Accordingly, Howe Barnes believes that its analyses must be considered as a whole and that selecting portions of its analyses and factors, or focusing on information presented in tabular format, without considering all of the analyses and factors or the narrative description of the analyses, would create a misleading or incomplete view of the process underlying its opinion.

In performing its analyses, Howe Barnes made numerous assumptions with respect to industry performance, general business, economic, market and financial conditions and other matters, many of which are beyond the control of Howe Barnes. Any estimates contained in the analyses performed by Howe Barnes are not necessarily indicative of actual values or future results, which may be significantly more or less favorable than those suggested by such analyses. Additionally, estimates of the value of businesses or securities do not purport to be appraisals or to reflect the prices at which such businesses or securities might actually be sold. Accordingly, these analyses and estimates are inherently subject to substantial uncertainty. In addition, as described above, the opinion of Howe Barnes was one of several factors taken into consideration by United's board of directors in making its determination to approve the merger and receive shares of U.S. Bancorp common stock in the merger. Consequently, Howe Barnes analyses as described below should not be viewed as determinative of the decision of United's board of directors with respect to the fairness from a financial point of view of the merger consideration to be paid by U.S. Bancorp to holders of United common stock.

In arriving at its opinion, Howe Barnes, among other things:

participated in discussions with representatives of United concerning United's financial condition, businesses, assets, earnings, prospects and regulatory relationships, including discussions with senior management as to its views regarding future financial performance;

reviewed the terms of the merger agreement;

reviewed certain publicly available financial statements, both audited (where available) and unaudited, and related financial information of United as well as other internally generated reports relating to asset/liability management, asset quality, and similar documents;

reviewed certain publicly available financial statements, both audited (where available) and unaudited, and related financial information of U.S. Bancorp;

reviewed certain financial forecasts and projections of United prepared by its management team;

reviewed consensus earnings per share estimates for U.S. Bancorp for the years ended December 31, 2006, December 31, 2007 and December 31, 2008 as published by Institutional Brokers Estimates System ("I/B/E/S");

reviewed the publicly available historical price and trading activity for United's and U.S. Bancorp's common stock, including a comparison of certain financial and stock market information for United and U.S. Bancorp with similar publicly available information for certain other companies the common stock of which are publicly traded;

compared the proposed financial terms of the merger with the financial terms of certain other transactions that it deemed to be relevant;

reviewed the potential pro forma impact of the merger; and

reviewed such other information and performed such other studies and analyses as it considered relevant.

In preparing its opinion, Howe Barnes assumed and relied on the accuracy and completeness of all information supplied or otherwise made available to it, discussed with or reviewed by or for it, or that was publicly available. Howe Barnes did not assume any responsibility for independently verifying such information and did not undertake any independent evaluation or appraisal of any of the assets or liabilities of U.S. Bancorp or United and it was not furnished with any such evaluation or appraisal, nor did it evaluate the solvency or fair value of U.S. Bancorp or United under any state or federal laws relating to bankruptcy, insolvency or similar matters. In addition, Howe Barnes did not assume any obligation to conduct any physical inspection of the properties or facilities of U.S. Bancorp or United. With respect to the financial forecast information discussed with Howe Barnes by United, Howe Barnes assumed that they had been reasonably prepared and reflected the best currently available estimates and judgment of the management of United as to the expected future financial performance of United. Howe Barnes also assumed that the final form of the merger agreement and the support agreement would be substantially similar to the last draft reviewed by it.

Howe Barnes' opinion is necessarily based upon market, economic and other conditions as they existed and could be evaluated on, and on the information made available to Howe Barnes, as of November 1, 2006. Howe Barnes further assumed that in the course of obtaining the necessary regulatory or other consents or approvals (contractual or otherwise) for the merger, no restrictions, including any divestiture requirements or amendments or modifications, would be imposed that will have a material adverse effect on the contemplated benefits of the merger.

In connection with the preparation of its opinion, Howe Barnes was not authorized by United or the board of directors of United to solicit, nor did Howe Barnes solicit, third party indications of interest for the acquisition of all or any part of United.

Pursuant to a letter agreement between United and Howe Barnes, dated as of October 6, 2006, United agreed to pay Howe Barnes a fee of \$125,000 for financial advisory services upon delivery of its opinion. United also agreed to indemnify Howe Barnes and certain related persons and entities for certain liabilities, including liabilities under the U.S. federal securities laws, related to or arising out of its engagement.

Howe Barnes has not in the past provided financial advisory and financing services to U.S. Bancorp or United, but may do so in the future. Howe Barnes may receive fees for the rendering of such services. In addition, in the ordinary course of its business, Howe Barnes may actively trade the common stock and other securities of U.S. Bancorp and other securities of U.S. Bancorp, for its own account and for the accounts of its customers and, accordingly, may at any time hold a long or short position in such securities.

Howe Barnes' opinion is addressed to United's board of directors and addresses only the fairness, from a financial point of view, of the merger consideration to be paid by U.S. Bancorp pursuant to the merger to holders of United common stock. The opinion does not address the merits of the underlying decision of United to engage in the merger and does not constitute, nor should it be construed as, a recommendation to any shareholder of United as to how that shareholder should vote with respect to the merger or any matter related thereto. In addition, the opinion of Howe Barnes does not address, and Howe Barnes was not asked to address, the fairness to, or any other consideration of, the holders of any class of securities other than common stock, creditors or other constituencies of United. Howe Barnes did not express any opinion as to the prices at which the common stock of U.S. Bancorp will trade following the announcement or consummation of the merger.

*Howe Barnes Hoefler & Arnett's Financial Analysis*

The following is a summary of the material financial analyses that Howe Barnes performed in connection with its opinion to United's board of directors dated November 6, 2006. The financial analyses summarized below include information presented in tabular format. In order to understand fully the financial analyses performed by Howe Barnes, the tables must be read together with the accompanying text of each summary. The tables alone do not constitute a complete description of the financial analyses, and if viewed in isolation could create a misleading or incomplete view of the financial analyses performed by Howe Barnes. To the extent the following quantitative information reflects market data, except as otherwise indicated, Howe Barnes based this information on market data as they existed as of November 1, 2006. This information, therefore, does not necessarily reflect current or future market conditions.

*Calculation of Transaction Value.* Howe Barnes reviewed the terms of the merger. The terms of the merger agreement state that United shareholders will receive the equivalent of 0.6825 shares of U.S. Bancorp common stock for each share of United common stock. Additionally, United shareholders will also receive a special dividend of \$0.50 per share prior to completion of the transaction. Based on U.S. Bancorp's closing stock price as of November 6, 2006, Howe Barnes calculated implied merger consideration of \$23.51 per share of United common stock. Howe Barnes also noted that the transaction had an implied aggregate total value of approximately \$74.5 million as of November 6, 2006.

*Comparable Companies Analysis.* Howe Barnes reviewed and compared selected financial information of United to publicly available data for eight publicly traded banks in the Northwest regional area, which includes the following companies:

Idaho Independent Bank	EvergreenBancorp, Inc.
Pacific Financial Corporation	Siuslaw Financial Group, Inc.
Cowlitz Bancorporation	Merchants Bancorp
Baker Boyer Bancorp	Northwest Bancorporation, Inc.

The following table compares selected financial information of United with corresponding median data for the above listed comparable companies. Financial data is as of or for the trailing twelve-month period ending September 30, 2006.

	<b>Total Assets</b>	<b>Return on Average Assets</b>	<b>Return on Average Equity</b>	<b>Equity / Assets</b>	<b>Tangible Equity / Tangible Assets</b>
	<b>(\$MM)</b>	<b>(%)</b>	<b>(%)</b>	<b>(%)</b>	<b>(%)</b>
United Financial Corp.	418	1.07	13.40	7.94	7.62
Comparable Median	340	1.18	12.68	9.20	8.67
	24				

## Edgar Filing: US BANCORP \DE\ - Form S-4

The following table shows the pricing characteristics of the above-listed comparable companies, which data is based on financial information as of November 1, 2006.

	Price/			
Book Value	Tangible Book Value	Assets	Trailing Twelve Month Earnings	
(%)	(%)	(%)	(x)	
United Financial Corp.	190.0	198.5	15.1	15.0
Comparable Median	215.3	226.3	19.5	17.8

No company used in the comparable company analyses described above is identical to United, or the pro forma combined company, as the case may be. Accordingly, an analysis of the results of the foregoing necessarily involves complex considerations and judgments concerning financial and operating characteristics and other factors that could affect the merger, public trading or other values of the companies to which they are being compared. Mathematical analyses, such as determining the median values, are not of themselves meaningful methods of using comparable company data.

*Comparable Merger and Acquisition Transactions and Implied Transaction Pricing Multiples.* Howe Barnes also reviewed the implied transaction pricing multiples of selected merger and acquisition transactions in three different comparable groups. The selected merger and acquisition groups included:

National bank sellers (located in low growth and less populated markets) since January 1, 2005 that had between \$250 million and \$750 million in assets at the time of announcement;

Northwest regional (MT, ID, WY, WA, OR) bank sellers since January 1, 2000 that had between \$250 million and \$750 million in assets at the time of announcement; and

Montana bank sellers since January 1, 2000.

For these selected merger and acquisition transactions, Howe Barnes used publicly available information to determine:

the multiples of the transaction price to both the book value and the tangible book value using the acquired companies' most recent financial reports at the time of announcement of the transactions;

the multiple of the transaction price to the last twelve months earnings at the time of announcement;

the multiple of transaction price to total assets; and

the implied premium to core deposits.

The median values of these multiples and premiums were then compared to those calculated for the merger. Howe Barnes considered these selected merger and acquisition transactions to be reasonably similar, but not identical, to the merger. A complete analysis involves complex considerations and judgment concerning differences in the selected merger and acquisition transactions and other factors that could affect the premiums paid in such comparable transactions to which the merger is being compared. Mathematical analysis, such as using the median values, is not by itself a meaningful method of using selected merger and acquisition transaction data.

## Edgar Filing: US BANCORP \DE\ - Form S-4

The following table compares the foregoing calculations for the merger and the median of the foregoing calculations for the selected merger and acquisition transactions.

Implied Transaction Value as a Multiple of:	U.S. Bancorp / United Financial Corp. <sup>(1)</sup>	Comparable Transactions: National Sellers	Comparable Transactions: Northwest Sellers	Comparable Transactions: Montana Sellers
Price to book value	217.9%	213.0%	205.4%	176.0%
Price to tangible book value	227.6%	241.8%	205.4%	183.0%
Price to LTM earnings	17.2x	20.5x	21.7x	13.5x
Price to assets	17.8%	19.2%	17.9%	17.7%
Premium to core deposits	16.0%	18.2%	19.1%	11.8%

(1) Based on financial data as of September 30, 2006.

*Review of U.S. Bancorp's Common Stock Trading Activity.* Howe Barnes reviewed the common stock trading history of U.S. Bancorp and:

Compared its price movement to movements in certain stock indices as well as the average performance of its Super Regional peer group;<sup>1</sup>

<sup>1</sup> The Super Regional peer group includes: BB&T Corporation, Fifth Third Bancorp, KeyCorp, National City Corporation, PNC Financial Services Group, Inc., Regions Financial Corporation, SunTrust Banks, Inc., Wachovia Corporation, and Wells Fargo & Company.

Reviewed U.S. Bancorp's stock price movements on a weekly basis over the last twelve months;

Compared certain trading multiples of U.S. Bancorp's stock to the average and median multiples of its Super Regional peer group over the last five years; and

Compared the recommendations of equity research analysts covering U.S. Bancorp's common stock to the recommendations of analysts publishing research on the institutions in the Super Regional peer group.

The following table compares U.S. Bancorp's price movement to movements in certain stock indices as well as the average performance of its Super Regional peer group.

Stock Price Performance	One Year <sup>(2)</sup>		Three Year <sup>(3)</sup>		Five Year <sup>(4)</sup>	
	Initial Value	Ending Value	Initial Value	Ending Value	Initial Value	Ending Value
U.S. Bancorp	100.0%	114.0%	100.0%	123.8%	100.0%	189.6%
Super Regional peer group	100.0%	112.2%	100.0%	116.6%	100.0%	135.6%
PHLX/KBW Bank Index	100.0%	113.6%	100.0%	120.0%	100.0%	145.8%
S&P 500 Index	100.0%	113.3%	100.0%	130.2%	100.0%	129.1%
NASDAQ Bank Index	100.0%	106.5%	100.0%	118.0%	100.0%	165.6%

(2) Represents price performance for the one year period ending November 1, 2006.

- (3) Represents price performance for the three year period ending November 1, 2006.
- (4) Represents price performance for the five year period ending November 1, 2006.



## Edgar Filing: US BANCORP \DE\ - Form S-4

The following table compares selected financial information of U.S. Bancorp with corresponding median data for the above listed Super Regional peer group. Financial data is as of or for the trailing twelve month period ending September 30, 2006.

	<b>Total Assets</b>	<b>Return on Average Assets</b>	<b>Return on Average Equity</b>	<b>Equity / Assets</b>	<b>Tangible Equity / Tangible Assets</b>
	(\$MM)	(%)	(%)	(%)	(%)
U.S. Bancorp	216,855	2.23	23.01	9.65	5.59
Super Regional peer group	118,524	1.38	15.08	9.47	6.81

The following table shows the pricing characteristics of the above listed comparable companies, which data is based on financial information as of November 1, 2006.

	<b>Price/</b>			
	<b>Book Value</b>	<b>Tangible Book Value</b>	<b>Assets</b>	<b>Trailing Twelve Month Earnings</b>
	(%)	(%)	(%)	(x)
U.S. Bancorp	298.3	527.5	27.5	13.1
Super Regional peer group	188.8	288.6	19.8	13.5

No company used in the comparable company analyses described above is identical to U.S. Bancorp, or the pro forma combined company, as the case may be. Accordingly, an analysis of the results of the foregoing necessarily involves complex considerations and judgments concerning financial and operating characteristics and other factors that could affect the merger, public trading or other values of the companies to which they are being compared. Mathematical analyses, such as determining the median values, are not of themselves meaningful methods of using comparable company data.

*Discounted Cash Flow Analysis.* Howe Barnes performed a discounted cash flow analysis to estimate a range of present values per share of United common stock assuming that United performed in accordance with the earnings projections provided by, and reviewed with, management. The valuation range was determined by adding: (i) the present value of United's free equity cash flows, representing an estimate of future dividends plus what United could additionally pay out to the shareholders while maintaining a target tangible equity / tangible assets ratio of 7.50% through December 31, 2011; and (ii) the present value of the terminal value of United common stock. In calculating the terminal value of United common stock, Howe Barnes applied multiples ranging from 15.0x to 19.0x to forecasted earnings for the year ended December 31, 2011. The equity cash flows and terminal value were then discounted back to present values using discount rates ranging from 10.0% to 14.0%, which are rates Howe Barnes viewed as the appropriate range to reflect different assumptions regarding the cost of United's equity capital.

In performing this analysis, Howe Barnes annualized United's net income for 2006. For subsequent years, earnings per share were assumed to increase annually by 10%, 10%, 5%, 6% and 5% for 2007 through 2011, respectively. The analysis assumed annual balance sheet growth rates of 6%, 5%, 5%, 6% and 7% for 2007 through 2011 and annual loan growth rates of 10% for United.

Based on the foregoing criteria and assumptions, Howe Barnes determined that the implied present value of the United common stock ranged from \$20.09 to \$28.52 per share.

*Pro Forma Financial Impact.* Based on the equivalent merger consideration of 0.6825 shares of U.S. Bancorp common stock for each share of United common stock, Howe Barnes analyzed the pro forma per share financial impact of the merger on United's GAAP earnings per share. This analysis was based on the I/B/E/S consensus earnings per share estimates for U.S. Bancorp for 2006, 2007 and 2008. I/B/E/S is a recognized data service that monitors and publishes compilations of earnings estimates by selected research analysts regarding companies of interest to institutional investors. Subsequent to 2008, earnings per share were assumed to increase 10% annually for U.S. Bancorp.

Howe Barnes annualized United's net income for 2006. Subsequent to 2006, earnings per share were assumed to increase annually by 10%, 10%, 5%, 6% and 5% for 2007 through 2011, respectively. Howe Barnes also made certain assumptions related to purchase accounting adjustments, cost savings, and transaction costs.

Based on these assumptions, the merger would be accretive to United's earnings per share by 27.98% in 2007, 27.59% in 2008, 33.03% in 2009, 37.70% in 2010, and 43.86% in 2011.

#### *General*

In conducting its analyses and arriving at its opinions, Howe Barnes utilized a variety of generally accepted valuation methods. The analyses were prepared for the purpose of enabling Howe Barnes to provide its opinion to the United board of directors as to the fairness, from a financial point of view of the merger consideration to be paid by U.S. Bancorp pursuant to the merger to holders of United common stock and do not purport to be appraisals or necessarily to reflect the prices at which businesses or securities actually may be sold, which are inherently subject to uncertainty. In connection with its analyses, Howe Barnes made, and was provided by the management of United with, numerous assumptions with respect to industry performance, general business and economic conditions and other matters, many of which are beyond the control of Howe Barnes, U.S. Bancorp or United. Analyses based on estimates or forecasts of future results are not necessarily indicative of actual past or future values or results, which may be significantly more or less favorable than suggested by such analyses. Because such analyses are inherently subject to uncertainty, being based upon numerous factors or events beyond the control of U.S. Bancorp, United or their respective advisors, neither United nor Howe Barnes nor any other person assumes responsibility if future results or actual values are materially different from these forecasts or assumptions.

United retained Howe Barnes based upon Howe Barnes' experience and expertise. Howe Barnes is a nationally recognized investment banking and advisory firm. Howe Barnes, as part of its investment banking business, is regularly engaged in the valuation of banks and bank holding companies, thrifts and thrift holding companies, and various other financial services companies in connection with mergers and acquisitions, negotiated underwritings, competitive biddings, secondary distributions of listed and unlisted securities, private placements and valuations for corporate and other purposes.

The terms of the merger were determined through negotiations between U.S. Bancorp and United and were approved by the board of directors of United. Although Howe Barnes provided its opinion to United's board of directors regarding the fairness, from a financial point of view, of the merger consideration to be paid to holders of United common stock, the decision to enter into the merger was solely that of United's board of directors. As described above, the opinion and presentation of Howe Barnes to United's board of directors was only one of a number of factors taken into consideration by United's board of directors in making its determination to approve and adopt the merger agreement and the transactions contemplated by the merger agreement, including the merger. Howe Barnes' opinion was provided to United's board of directors to assist it in connection with its consideration of the merger and does not constitute a recommendation to any shareholder as to how to vote or take any other action with respect to the merger. Howe Barnes' opinion does not in any manner address the prices at which shares of U.S. Bancorp's common stock will trade after the announcement or merger completion.

#### **U.S. Bancorp's Reasons for the Merger**

U.S. Bancorp believes that:

the acquisition will strengthen U.S. Bancorp's franchise in Montana, both by enhancing its existing market presence in certain regions of Montana and expanding into new regions of Montana;

the acquisition offers the potential for U.S. Bancorp to utilize its strategy of bringing the sophisticated resources that a larger company such as U.S. Bancorp can provide (e.g., Internet banking, asset management, capital markets and treasury management) to leverage United's existing business; and

the merger will be accretive to U.S. Bancorp's GAAP earnings in the first year exclusive of merger-related charges.

#### **Certain Executive Officers and Directors Have Financial Interests in the Merger**

In considering the recommendation of United's board of directors with respect to the merger agreement, you should be aware that United's executive officers and directors have interests in the merger and have arrangements that are different from, or in addition to, those of United shareholders generally. United's board of directors was aware of these interests and considered them, among other matters, in reaching its decisions to approve the merger agreement and to recommend that United shareholders vote in favor of the merger agreement.

##### *Stock Options and Other Incentive Compensation*

The merger agreement provides that following approval of the merger by United's shareholders, United may accelerate and make all options to purchase United common stock fully vested and exercisable immediately prior to the effective time of the merger. To the extent not exercised immediately prior to the effective time, each outstanding option to purchase United common stock will be cancelled and converted into the right to receive a cash amount equal to the excess, if any, of the cash value of the merger consideration over the exercise price for such option.

Based upon anticipated holdings as of the date of this document, United directors and executive officers held options to acquire a total of 129,025.50 shares of United common stock at a weighted average exercise price of \$11.08. Based on a merger exchange ratio of 0.6825, and assuming all option holders exercise their options in full prior to the effective time of the merger, these options would convert to 88,059.90 shares of U.S. Bancorp common stock. Options for all but 15,156.25 shares were fully vested as of the date of this document. If United declares any special dividends prior to the completion of the merger, United expects to permit executive officers and directors to exercise options before the effective time of the merger but prior to the declaration of the special dividend to permit the executive officers and directors to receive any such dividends prior to the effective time. The number of unvested options to acquire shares of United common stock held by each of Messrs. Feurt and Clark, that will become vested and exercisable in connection with the merger is 2,984 and 2,984, respectively, and the number of unvested options to acquire shares of United common stock held by each of directors Kurt Weise, J. William Bloemendaal, William Madison and Kenneth Murray is 3,984, 1,109, 1,109 and 1,500, respectively.

United has a bonus plan for its executive officers and other management personnel. Bonuses payable under the plan are based on return on assets, asset quality and the overall growth and performance of Heritage Bank. Bonuses have historically been paid in January following the end of the fiscal year. Under the merger agreement, United is permitted to pay regular bonuses to its executives under this plan, but such amounts cannot exceed \$400,000 in the aggregate. In January 2006, the compensation committee approved bonuses based on 2005 performance for Mr. Clark and Mr. Feurt of \$41,800 and \$41,100, respectively.

##### *Retention and Noncompetition Agreements*

As part of the merger, U.S. Bancorp has entered into retention and noncompetition agreements with each of Mr. Clark and Mr. Feurt. Each agreement runs for a two-year period commencing on November 6, 2006, and provides, in Mr. Clark's case, an aggregate cash payment of \$130,000, and in

Mr. Feurt's case, an aggregate cash payment of \$125,000, subject to continued employment with U.S. Bancorp. Mr. Clark and Mr. Feurt will receive one-half of their respective aggregate retention payments on the regular pay day that is immediately following November 6, 2007, and the second half of the aggregate retention payment on the regular pay day that is immediately following November 6, 2008. If prior to the expiration of the two-year period Mr. Clark's or Mr. Feurt's employment is terminated other than for cause, then the unpaid portion of the retention amount vests and will be paid on the same dates as set forth above. If either Mr. Clark or Mr. Feurt terminate employment by reason of disability or death, such employee's estate or beneficiary, as applicable, will be paid a lump-sum equal to the amount that would have vested and been paid on the next payment date. U.S. Bancorp will also continue to pay to such employee his base salary from the date of termination through November 6, 2008. In addition, in the event of termination without cause, Messrs. Feurt and Clark would be entitled to continue to receive their base salary through the second anniversary of the completion of the merger. If Mr. Feurt was terminated without cause immediately following the completion of the merger, he would be entitled to aggregate payments of \$125,000 under the retention and noncompetition agreements. If Mr. Clark was terminated without cause immediately following the completion of the merger, he would be entitled to aggregate payments of \$130,000 under the retention and noncompetition agreements.

Throughout the two-year period commencing on November 6, 2006, Mr. Clark and Mr. Feurt have agreed not to engage in or become associated with any business or endeavor, in any county in Montana, that is engaged in the banking business, whether through a bank, a savings and loan, a savings bank, a credit union, a mortgage company, bank holding company, savings and loan holding company or other depository institution holding company. Mr. Clark and Mr. Feurt have also agreed not to disclose confidential information and to certain non-solicitation provisions. In the event that the executives breach their obligations under the retention and noncompetition agreements, they will no longer be entitled to the retention and/or severance payments described above.

#### *Indemnification*

The merger agreement provides that the surviving corporation in the merger will indemnify and hold harmless, and provide advancement of expenses to each person who is now an officer or director of United or any of its subsidiaries against all losses, claims, damages, costs, expenses, liabilities or judgments or amounts that are paid in settlement of or in connection with any claim, action, suit, proceeding or investigation based in whole or in part on or arising in whole or in part out of the fact that such person is now or was a director or officer of United or any subsidiary of United to the same extent as such persons are indemnified by United pursuant to United's articles of incorporation, bylaws and indemnification agreements, if any.

The merger agreement also provides that for a period of six years after merger completion, U.S. Bancorp will provide directors' and officers' liability insurance for the present and former officers and directors of United with respect to claims arising from facts or events occurring before the merger is completed, provided that U.S. Bancorp will not be obligated to make annual premium payments for such coverage to the extent such premiums exceed 200% of the premiums paid by United as of the date of the merger agreement.

#### *Existing Agreements with Executive Officers*

United's wholly-owned subsidiary, Heritage Bank, has compensation agreements with each of Kevin P. Clark, Steve L. Feurt and Jeffrey C. Mortensen that are expected to be continued following the merger. The merger will not trigger payments under these agreements.

*Salary Continuation Agreement with Kevin P. Clark*

Heritage Bank has a salary continuation agreement with Kevin P. Clark that provides for pre-determined periodic payments over 15 years upon a change in control of Heritage Bank or Mr. Clark's retirement or death. In the event of a change in control of Heritage Bank or Mr. Clark's disability or retirement before age 62, the pre-determined payments are based on years of service. At any time, Mr. Clark is 100% vested in the amount accrued to date. At December 31, 2005, Mr. Clark's accrued benefit under the plan totaled \$64,690. If there is a change in control of Heritage Bank or Mr. Clark retires or becomes disabled on January 1, 2007, he would receive a lump-sum payment of \$77,329 payable after six months. Assuming Mr. Clark retires at the age of 62, the projected annual benefit is \$67,476 for a total payment of \$1,012,140 over the 15-year period.

*Supplemental Retirement Agreement with Steve L. Feurt*

In October 1999, Heritage Bank entered into a supplemental retirement agreement with Steve L. Feurt that provides for the accrual of and payment of benefits upon retirement at age 65, early retirement, a change in control of Heritage Bank or Mr. Feurt's disability or death. Mr. Feurt vests 10% of plan benefits every year he is employed and will be fully vested on January 1, 2007. If Mr. Feurt terminates employment at age 65 for reasons other than death, he is entitled to a lump-sum payment of \$314,988, or at his election, an annuity with a term acceptable to Mr. Feurt can be purchased using all available accrued amounts under the agreement. If he retires after age 65, he continues to accrue annual benefits up to retirement. If Mr. Feurt terminates employment before age 65 for any reason other than death, disability or a change in control, he is entitled to the benefits accrued as of the date of termination. If Mr. Feurt terminates employment due to disability prior to age 65, he is entitled to the amount accrued on the date of determination of full or partial disability. Upon a change in control of Heritage Bank, Mr. Feurt is entitled to the amount of benefits accrued as of the date of the change in control in lieu of any other benefit under the agreement. If Mr. Feurt dies while employed by Heritage Bank, his beneficiary will receive the accrued amount as of the date of his death. If Mr. Feurt retires, becomes disabled, dies or there is a change in control at Heritage Bank on January 1, 2007, Mr. Feurt would be entitled to \$51,640, payable in a lump sum after six months.

*Supplemental Retirement Agreement with Jeffrey C. Mortensen*

In January 2006, Heritage Bank entered into a supplemental retirement agreement with Jeffrey C. Mortensen that provides for the accrual of and payment of benefits upon retirement at age 65, early retirement, a change in control of Heritage Bank or Mr. Mortensen's disability or death. Mr. Mortensen vests 10% of plan benefits every year he is employed after January 1, 2009, and is fully vested after 10 years. If Mr. Mortensen terminates employment at age 65 for reasons other than death, he is entitled to a lump-sum payment of \$203,187, or at his election, an annuity with a term acceptable to Mr. Mortensen can be purchased using all available accrued amounts under the agreement. If he retires after age 65, he continues to accrue annual benefits up to retirement. If Mr. Mortensen terminates employment before age 65 for any reason other than death, disability or a change in control, he is entitled to the benefits accrued as of the date of termination. If Mr. Mortensen terminates employment due to disability prior to age 65, he is entitled to the amount accrued on the date of determination of full or partial disability. Upon a change in control of Heritage Bank, Mr. Mortensen is entitled to the amount of benefits accrued as of the date of the change in control in lieu of any other benefit under the agreement. If Mr. Mortensen dies while employed by Heritage Bank, his beneficiary will receive the accrued amount as of the date of his death. If Mr. Mortensen retires, becomes disabled, dies or there is a change in control at Heritage Bank on January 1, 2007, Mr. Mortensen is entitled to \$8,391, payable in a lump sum after six months.

## Regulatory Matters

We have agreed to use our reasonable best efforts to obtain all regulatory approvals required to complete the transactions contemplated by the merger agreement. These approvals include approval of the Federal Reserve or a waiver from the application requirement. U.S. Bancorp and United have completed, or will complete, the filing of applications and notifications to obtain the required regulatory approvals and/or waivers therefrom.

*Federal Reserve Board.* The merger is subject to approval by the Federal Reserve Board pursuant to Section 3 of the Bank Holding Company Act of 1956, as amended. The Federal Reserve Board is prohibited from approving any transaction under the applicable statutes that (1) would result in a monopoly, (2) would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or (3) may have the effect in any section of the United States of substantially lessening competition, tending to create a monopoly or resulting in a restraint of trade, unless the Federal Reserve Board finds that the anti-competitive effects of the transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the communities to be served.

In addition, in reviewing a transaction under the applicable statutes, the Federal Reserve Board will consider the financial and managerial resources of the companies and their subsidiary banks and the convenience and needs of the communities to be served as well as the companies' effectiveness in combating money-laundering activities. In connection with its review, the Federal Reserve Board will provide an opportunity for public comment on the application for the merger.

Under the Community Reinvestment Act of 1977, which we refer to as the CRA, the Federal Reserve Board must take into account the record of performance of each of U.S. Bancorp and United in meeting the credit needs of the entire community, including low- and moderate-income neighborhoods, served by each company and their subsidiaries. U.S. Bancorp's and United's subsidiary depository institutions that are subject to the CRA have CRA ratings of "Outstanding" or "Satisfactory" with the applicable federal regulator.

Under Section 225.12(d)(2) of the Federal Reserve Board's regulations (12 C.F.R. 225.12(d)(2)), the prior approval of the Federal Reserve Board is not required in connection with the acquisition by a bank holding company of another bank holding company if the subsidiary banks of both bank holding companies are merged with each other simultaneously with the holding company acquisition. In addition, the bank to be acquired may not be operated by the acquiring bank holding company as a separate entity. The transaction must also satisfy certain other requirements, including that the bank merger require the prior approval of a federal supervisory agency under the Bank Merger Act. We believe that the transaction satisfies the requirements of Section 225.12(d)(2).

*Other Requisite Approvals, Notices and Consents.* An application is also being filed with the Office of the Comptroller of the Currency under the Bank Merger Act for permission to merge Heritage Bank, a Montana state chartered bank, into U.S. Bank National Association, a nationally banking association. Prior notices to, or approvals from, various state regulatory authorities will also be required in connection with the acquisition. All required notifications and/or applications are being made to the appropriate state and other regulatory authorities.

We are not aware of any material governmental approvals or actions that are required for completion of the merger other than those described above. It is presently contemplated that if any such additional government approvals or actions are required, those approvals or actions will be sought.

*Timing.* A transaction approved pursuant to the Bank Holding Company Act or the Bank Merger Act may not be completed until 30 days after approval is received, during which time the Antitrust Division of the U.S. Department of Justice may challenge the merger. The commencement of an

antitrust action would stay the effectiveness of an approval unless a court specifically ordered otherwise. With the approval of the Federal Reserve Board or the Office of the Comptroller of the Currency, as applicable, and the concurrence of the Antitrust Division, the waiting period may be reduced to no less than 15 days.

U.S. Bancorp and United believe that the merger does not raise significant regulatory concerns and that they will be able to obtain all requisite regulatory approvals on a timely basis without the imposition of any condition that could reasonably be expected to have a material adverse effect on United or U.S. Bancorp. However, we cannot assure you that all of the regulatory approvals described above will be obtained, and, if obtained, we cannot assure you as to the date of any approvals or the absence of any litigation challenging such approvals. Likewise, we cannot assure you that the Antitrust Division, the FTC or any state attorney general will not attempt to challenge the merger on antitrust grounds, and, if such a challenge is made, we cannot assure you as to its result.

#### **Material U.S. Federal Income Tax Consequences of the Merger**

The following is a summary of the material anticipated U.S. federal income tax consequences generally applicable to a U.S. Holder (as defined below) of United common stock with respect to the exchange of United common stock for U.S. Bancorp common stock pursuant to the merger. This discussion assumes that U.S. Holders hold their United common stock as capital assets within the meaning of section 1221 of the Code. This summary is based on the Code, administrative pronouncements, judicial decisions and Treasury Regulations, each as in effect as of the date of this proxy statement/prospectus. All of the foregoing are subject to change at any time, possibly with retroactive effect, and all are subject to differing interpretation. No advance ruling has been sought or obtained from the Internal Revenue Service (or the IRS), regarding the U.S. federal income tax consequences of the merger. As a result, no assurance can be given that the IRS would not assert, or that a court would not sustain, a position contrary to any of the tax consequences set forth below.

This summary does not address any tax consequences arising under U.S. federal tax laws other than U.S. federal income tax laws, nor does it address the laws of any state, local, foreign or other taxing jurisdiction. In addition, this summary does not address all aspects of U.S. federal income taxation that may apply to U.S. Holders of United common stock in light of their particular circumstances or U.S. Holders that are subject to special rules under the Code, such as holders of United common stock that are not U.S. Holders, holders that are partnerships or other pass-through entities (and persons holding their United common stock through a partnership or other pass-through entity), persons who acquired shares of United common stock as a result of the exercise of employee stock options or otherwise as compensation or through a tax-qualified retirement plan, persons subject to the alternative minimum tax, tax-exempt organizations, expatriates and former long-term residents of the United States, financial institutions, broker-dealers, traders in securities that have elected to apply a mark-to-market method of accounting, insurance companies, persons having a "functional currency" other than the U.S. dollar and persons holding their United common stock as part of a straddle, hedging, constructive sale or conversion transaction.

**You are strongly urged to consult with your tax advisor with respect to the tax consequences to you of the merger in light of your own particular circumstances, including the tax consequences under state, local, foreign and other tax laws and the possible effects of changes in the United States federal or other tax laws.**

For purposes of this summary, a "U.S. Holder" is a beneficial owner of United common stock that is for U.S. federal income tax purposes:

-->

a United States citizen or resident alien;

- > a corporation, or other entity taxable as a corporation for U.S. federal income tax purposes, created or organized under the laws of the United States or any state therein or the District of Columbia;
- > an estate, the income of which is subject to U.S. federal income taxation regardless of its source; and
- > a trust if (1) it is subject to the primary supervision of a court within the United States and one or more United States persons have the authority to control all substantial decisions of the trust, or (2) it was in existence on August 20, 1996 and has a valid election in effect under applicable Treasury Regulations to be treated as a United States person.

If a partnership (including any other entity treated as a partnership for U.S. federal income tax purposes) holds United common stock, the tax treatment of a partner will generally depend on the status of the partner and the activities of the partnership. Such a partner should consult its tax advisor.

### *The Merger*

The merger is intended to qualify as a reorganization under section 368(a) of the Code. It is a condition to the completion of the merger that each of U.S. Bancorp and United receive an opinion dated the closing date from Wachtell, Lipton, Rosen & Katz and Lindquist & Vennum PLLP, respectively, dated as of the completion date of the merger and rendered on the basis of facts, representations and assumptions set forth or referred to in the opinion, all of which are consistent with the facts existing as of the effective time of the merger, to the effect that the merger will qualify as a reorganization within the meaning of section 368(a) of the Code. These opinions will be based in part on representation letters provided by United and U.S. Bancorp and on customary factual assumptions. If any of the facts, representations or assumptions upon which the opinions are based are inconsistent with the actual facts, the tax consequences of the merger could be adversely affected, the opinions and this summary may not accurately describe the U.S. federal income tax treatment of the merger, and the tax consequences of the merger to U.S. Holders may be materially different from those described in this summary.

Assuming the merger qualifies as a reorganization within the meaning of section 368(a) of the Code, United and U.S. Bancorp will not recognize any gain or loss for U.S. federal income tax purposes as a result of the merger, and the U.S. federal income tax consequences of the merger to U.S. Holders of United common stock will be, in general, as follows:

- > a U.S. Holder that receives U.S. Bancorp common stock in exchange for its shares of United common stock in the merger will not recognize gain or loss on the exchange, except with respect to cash received instead of a fractional share interest in U.S. Bancorp common stock;
- > the aggregate tax basis of the shares of U.S. Bancorp common stock received in the merger (including any fractional shares deemed received and redeemed for cash as described below) will be equal to the aggregate tax basis in the shares of United common stock surrendered in exchange for the U.S. Bancorp common stock; and
- > an exchanging U.S. Holder's holding period in the U.S. Bancorp common stock received in the merger (including any fractional shares deemed received and redeemed for cash as described below) will include the holding period of the United common stock surrendered in exchange for U.S. Bancorp common stock.

### *Cash Instead of Fractional Shares*

A U.S. Holder that receives cash instead of a fractional share will be treated as if such U.S. Holder had received a fractional share of U.S. Bancorp common stock and then exchanged such



fractional share for cash in a redemption by U.S. Bancorp. Assuming that the deemed redemption of a fractional share of U.S. Bancorp common stock is treated as a sale or exchange, and not as a dividend, a U.S. Holder will generally recognize capital gain or loss on such deemed redemption of the fractional share in an amount equal to the difference between the amount of cash received instead of the fractional share and the U.S. Holder's tax basis in the fractional share of U.S. Bancorp common stock. Such capital gain or loss will be long-term capital gain or loss if the United common stock exchanged was held for more than one year at the effective time of the merger.

#### *Special Dividend*

Subject to the limitations and qualifications described herein, if a special dividend is paid by United, we expect that it should qualify as a distribution within the meaning of Section 301 of the Code.

Assuming the IRS respects this characterization, a special dividend paid by United will be treated as a dividend for U.S. federal income tax purposes to the extent paid out of current or accumulated earnings and profits of United. To the extent that the amount of a special dividend exceeds United's current and accumulated earnings and profits, the excess will first be treated as a tax-free return of capital to the extent of the adjusted basis in the U.S. Holder's common stock (and will reduce such adjusted basis) and thereafter will be treated as capital gain from the sale or exchange of the United common stock. A U.S. Holder who is an individual and who meets applicable holding period requirements under the Code for "qualified dividend income" would generally be taxed on the portion of the special dividend that is treated as a dividend at a maximum federal income tax rate of 15%. Corporate holders may be eligible for the dividends-received deduction, which is subject to certain limitations, with respect to that portion of the special dividend treated as a dividend.

It is possible that the IRS could seek to treat the special dividend paid by United as additional merger consideration paid by U.S. Bancorp in exchange for a portion of a holder's shares of United common stock. To the extent the IRS were to prevail, a U.S. Holder of United common stock generally would recognize gain (but not loss) in an amount equal to the lesser of (1) the sum of the special dividend and the fair market value of the U.S. Bancorp common stock received, minus the adjusted tax basis of the United common stock surrendered and (2) the amount of the special dividend. Any such gain would be treated as capital gain unless the receipt of cash has the effect of the distribution of a dividend for U.S. federal income tax purposes, in which case the gain would be treated as a dividend to the extent of a U.S. Holder's ratable share of United's accumulated earnings and profits.

#### *Information Reporting and Backup Withholding*

A non-corporate U.S. Holder of United common stock may be subject to information reporting and backup withholding on any cash payments it receives instead of fractional share interests in U.S. Bancorp common stock and on the special dividend. Backup withholding will not apply, however, if such U.S. Holder (a) furnishes a correct taxpayer identification number and properly certifies that it is not subject to backup withholding (generally on a substitute Form W-9) and otherwise complies with the applicable requirements under the backup withholding rules or (b) otherwise establishes an exemption from backup withholding.

Any amounts withheld under the backup withholding rules may be allowed as a refund or credit against the U.S. Holder's U.S. federal income tax liability, provided such U.S. Holder properly furnishes the required information to the IRS. U.S. Holders should consult their tax advisors as to their qualifications for an exemption from backup withholding and the procedure for establishing an exemption.

*Reporting Requirements*

A U.S. Holder that receives U.S. Bancorp common stock as a result of the merger will be required to retain records pertaining to the merger and will be required to file with its U.S. federal income tax return for the year in which the merger takes place a statement setting forth certain facts relating to the merger.

**Accounting Treatment**

The merger will be accounted for as a "purchase" by U.S. Bancorp of United, as that term is used under U.S. Generally Accepted Accounting Principles, which we refer to as GAAP, for accounting and financial reporting purposes. As a result, the historical financial statements of U.S. Bancorp will continue to be the historical financial statements of U.S. Bancorp following the completion of the merger. The assets (including identifiable intangible assets) and liabilities (including executory contracts and other commitments) of United as of the effective time of the merger will be recorded at their respective fair values and added to those of U.S. Bancorp. Any excess of purchase price over the net fair values of United assets and liabilities is recorded as goodwill (excess purchase price). Financial statements of U.S. Bancorp issued after the merger will reflect such fair values and will not be restated retroactively to reflect the historical financial position or results of operations of United. The results of operations of United will be included in the results of operations of U.S. Bancorp beginning on the effective date of the merger.

**Board of Directors and Management of U.S. Bancorp Following Completion of the Merger**

The composition of U.S. Bancorp's board of directors and its senior management will not be changed as a result of the merger. Information about the current U.S. Bancorp directors and executive officers can be found in U.S. Bancorp's proxy statement filed with the Securities and Exchange Commission on March 22, 2006. See "Where You Can Find More Information" on page 150.

**Exchange of Certificates in the Merger**

At or prior to the completion of the merger, U.S. Bancorp will cause to be deposited with the exchange agent certificates representing shares of U.S. Bancorp common stock for the benefit of the holders of certificates representing shares of United common stock and cash instead of any fractional shares that would otherwise be issued to United shareholders in the merger.

Promptly after the completion of the merger, U.S. Bancorp will cause the exchange agent to send transmittal materials to each holder of a United stock certificate for use in exchanging United stock certificates for certificates representing shares of U.S. Bancorp common stock and cash instead of fractional shares, if applicable. The exchange agent will deliver certificates for U.S. Bancorp common stock and/or a check instead of any fractional shares of U.S. Bancorp common stock once it receives the properly completed transmittal materials together with certificates representing a holder's shares of United common stock.

United stock certificates may be exchanged for U.S. Bancorp stock certificates with the exchange agent for up to six months after the completion of the merger. At the end of that period, any U.S. Bancorp stock certificates and cash will be returned to U.S. Bancorp. Any holders of United stock certificates who have not exchanged their certificates will be entitled to look only to U.S. Bancorp, and only as general creditors of U.S. Bancorp, for U.S. Bancorp stock certificates and any cash to be received instead of fractional shares of U.S. Bancorp common stock.

If your United stock certificate has been lost, stolen or destroyed you may receive a U.S. Bancorp stock certificate upon the making of an affidavit of that fact. U.S. Bancorp may require you to post a bond in a reasonable amount as an indemnity against any claim that may be made against U.S. Bancorp with respect to the lost, stolen or destroyed United stock certificate.

Neither U.S. Bancorp nor United, nor any other person, will be liable to any former holder of United common stock for any amount properly delivered to a public official pursuant to applicable abandoned property, escheat or similar laws.

#### **Treatment of United Options**

Upon approval and adoption of the merger agreement by holders of a majority of shares of United common stock, United may, at its option, cause all outstanding options to acquire United common stock, whether or not vested or exercisable, to become fully vested and exercisable. At the completion of the merger, each outstanding and unexercised option to acquire shares of United common stock will be cancelled and converted into the right to receive a cash payment equal to the excess, if any, of the cash value at the closing of the merger of 0.6825 shares of U.S. Bancorp common stock over the exercise price of such stock option.

#### **Fractional Shares**

U.S. Bancorp will not issue any fractional shares of U.S. Bancorp common stock. Instead, a United shareholder who would otherwise have received a fraction of a share of U.S. Bancorp common stock will receive an amount of cash equal to the fraction of a share of U.S. Bancorp common stock to which such holder would otherwise be entitled multiplied by the closing sale price per share of U.S. Bancorp common stock on the trading day immediately preceding the completion of the merger as reported on the NYSE Composite Transaction Tape.

#### **Resales of U.S. Bancorp Stock by Affiliates**

Shareholders of United who may be deemed to be affiliates of U.S. Bancorp and United, as defined under Rule 145 under the Securities Act, generally may not sell their shares of U.S. Bancorp common stock acquired in the merger except pursuant to an effective registration statement under the Securities Act or an applicable exemption from the registration requirements of the Securities Act, including Rules 144 and 145 promulgated by the SEC under the Securities Act. Affiliates include directors, executive officers, and beneficial owners of 10% or more of any class of capital stock.

United agreed in the merger agreement to deliver a letter of agreement from each person it reasonably believes to be an "affiliate" by which that person will agree, among other things, not to offer to sell, transfer or otherwise dispose of any of the shares of U.S. Bancorp common stock distributed to him or her pursuant to the merger except in compliance with Rule 144 and Rule 145 under the Securities Act, in a transaction that is otherwise exempt from the registration requirements of the Securities Act, or in an offering registered under the Securities Act. U.S. Bancorp may place restrictive legends on its common stock certificates that are issued to persons who are deemed to be affiliates under the Securities Act. This document does not cover any resales of U.S. Bancorp common stock received in the merger by any person who may be deemed an affiliate of U.S. Bancorp or United.

#### **Public Trading Markets**

United common stock is reported on the Nasdaq Global Market under the symbol "UBMT." Upon completion of the merger, United common stock will be delisted from the Nasdaq Global Market and deregistered under the Securities Exchange Act of 1934, as amended. U.S. Bancorp common stock is listed on the New York Stock Exchange and trades under the symbol "USB."

The shares of U.S. Bancorp common stock to be issued in connection with the merger will be freely transferable under the applicable securities laws, except for shares issued to any shareholder who may be deemed to be an affiliate of U.S. Bancorp or United, as discussed in " Resales of United Stock by Affiliates."

#### **Appraisal Rights**

Under Minnesota law, United shareholders are not entitled to appraisal rights in connection with the merger.

## THE MERGER AGREEMENT

*The following describes material provisions of the merger agreement and support agreement, which are attached as **Annex A** and **Annex B**, respectively, to this document and which are incorporated by reference into this document. The rights and obligations of the parties are governed by the express terms and conditions of the merger agreement and support agreement and not by this summary or any other information contained in this document. We urge you to read the merger agreement and support agreement carefully and in their entirety.*

### **The Merger**

A wholly owned subsidiary of U.S. Bancorp created for purposes of the merger will merge with and into United. United will be the surviving corporation and will continue its corporate existence as a direct, wholly owned subsidiary of U.S. Bancorp, and the separate corporate existence of merger subsidiary will cease as of the completion of the merger. Upon the completion of the merger, each share of United common stock outstanding, other than shares of United common stock held by either U.S. Bancorp, United or merger subsidiary, will be automatically converted into the right to receive 0.6825 shares of U.S. Bancorp common stock. All shares of United common stock converted into shares of U.S. Bancorp common stock will automatically be cancelled and retired at the completion of the merger. In addition, any shares of United common stock held by either United, U.S. Bancorp or merger subsidiary will be cancelled and retired at the completion of the merger, and no merger consideration will be received for these shares.

### **Completion of the Merger**

Unless the parties agree otherwise and subject to the next sentence, the completion of the merger will take place at a time and place to be agreed by the parties, but no later than the fifth business day after all closing conditions have been satisfied or waived. In addition, U.S. Bancorp has the right, in its sole discretion, to set the date of completion of the merger to the last business day of, or the first business day of the month immediately following, the month in which all closing conditions have been satisfied or waived.

The merger will be completed when U.S. Bancorp files articles of merger with the Secretary of State of the State of Minnesota, unless U.S. Bancorp and United agree to a later time for the completion of the merger and specify that time in the articles of merger. We currently expect to complete the merger in the first quarter of 2007, subject to receipt of required shareholder and regulatory approvals.

### **Conditions to Completion of the Merger**

United's and U.S. Bancorp's respective obligations to complete the merger are subject to the fulfillment or waiver of certain conditions, including:

the approval and adoption of the merger agreement by the holders of a majority of the outstanding shares of United common stock;

receipt of governmental and regulatory approvals required to complete the merger;

receipt of all other notices, consents and waivers from third parties, except as would not reasonably be expected to have a material adverse effect on either of United or U.S. Bancorp;

the absence of any judgment, order, decree, statute, law, ordinance, rule or regulation, entered, enacted, promulgated, enforced or issued by any court or any governmental entity or other legal restraint that prohibits, restrains or makes illegal the completion of the merger;

## Edgar Filing: US BANCORP \DE\ - Form S-4

the effectiveness of the registration statement with respect to the U.S. Bancorp common stock to be issued in connection with the merger, the absence of any stop orders suspending the effectiveness of the registration statement or proceeding instituted by the SEC seeking the foregoing, and the receipt of all approvals required under state securities laws with respect to the merger;

the authorization for listing by the NYSE of the shares of U.S. Bancorp common stock to be issued to the holders of shares of United common stock upon completion of the merger, subject to official notice of issuance;

the truth and correctness of the other party's representations and warranties as of the date of the merger agreement and the date of the completion of the merger (with the exception of those representations and warranties that by their terms speak specifically as of the date of the merger agreement or some other date, which representations and warranties shall be true and correct as of such date), subject to the material adverse effect standard in the merger agreement;

the other party's due performance in all material respects of all the obligations required to be performed by it under the merger agreement; and

the receipt by each party from its legal advisor of a written legal opinion, dated as of the completion date of the merger, and rendered on the basis of facts, representations and assumptions set forth or referred to in such opinion, all of which are consistent with the facts existing as of the effective time of the merger, to the effect that the merger will qualify as a reorganization within the meaning of section 368(a) of the Internal Revenue Code of 1986, as amended, which we refer to as the "Code."

U.S. Bancorp's obligation to complete the merger is subject to the following additional conditions:

the absence of any regulatory term or condition that could reasonably be expected to have a material adverse effect on the business, operations, financial condition or results of operations of United or U.S. Bancorp, in either case as measured on a scale relative to United; and

the continued employment of certain senior executives of United at the time the merger is completed, and the absence of any notice of termination from these executives prior to the completion of the merger.

### **No Solicitation**

United has agreed that it will not, and will cause its subsidiaries and United's and its subsidiaries' officers, directors, agents, representatives and affiliates not to:

solicit, initiate, encourage or take any action to facilitate any inquiries or proposals with respect to any "company takeover proposal" (as defined below); or

participate in any discussions or negotiations regarding any company takeover proposal, enter into any agreement regarding a company takeover proposal or that could reasonably be expected to lead to any company takeover proposal or make or authorize any public statement, recommendation, or solicitation in support of any company takeover proposal.

However, prior to the special meeting of United shareholders, United may consider and participate in discussions and negotiations with respect to an unsolicited bona fide company takeover proposal, furnish information regarding United to a person proposing a company takeover proposal, and withdraw or modify its recommendation to its shareholders that they approve and adopt the merger agreement, but only if: (1) the United board of directors determines in good faith, after consultation with outside counsel, that it is necessary to do so in order to comply with its fiduciary duties (after taking into account any changes in the terms of the merger agreement that U.S. Bancorp may have



proposed in its sole discretion); (2) the company takeover proposal did not result from any breach by United of its obligations under the merger agreement relating to non-solicitation; (3) United first enters into a confidentiality agreement with the party proposing the competing takeover proposal on terms that are no less favorable to United than those of its confidentiality agreement with U.S. Bancorp; and (4) United provides prior written notice to U.S. Bancorp of its decision to take such action.

United has also agreed:

to notify U.S. Bancorp promptly (and in any event within 24 hours) of any request for information relating to a company takeover proposal, or of any company takeover proposal, and to provide U.S. Bancorp with relevant information regarding the company takeover proposal or request, including a copy of such company takeover proposal or request;

to keep U.S. Bancorp fully informed, on a current basis, of the status, terms and details (including amendments or proposed amendments) of any such company takeover proposal;

to ensure that United's officers, directors, employees, agents and representatives are aware of and understand the restrictions on solicitation of company takeover proposals, and to be responsible for any breach by such persons of the solicitation restrictions in the merger agreement if United had knowledge of or consented to such breach; and

to cease immediately and cause to be terminated any existing discussions or negotiations with any persons regarding a company takeover proposal, and to use reasonable efforts to cause all persons other than U.S. Bancorp who have been furnished confidential information regarding United in connection with any discussions or negotiations regarding a company takeover proposal within the 12 months prior to the date of the merger agreement to return or destroy such information.

As used in the merger agreement, "company takeover proposal" means a proposal or offer from any person (other than U.S. Bancorp or its affiliates) relating to:

any direct or indirect acquisition or purchase of (i) assets of United and its subsidiaries that generate 20% or more of the net revenues or net income, or that represent 20% or more of the total assets, of United and its subsidiaries, taken as a whole, or (ii) 20% or more of any class