EMBARCADERO TECHNOLOGIES INC
Form DEFM14A
May 24, 2007
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PREM14A

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

SCHEDULE 14A

Proxy Statement Pursuant to Section 14(a) of the

Securities Exchange Act of 1934, as amended

Filed by the Registrant x

Filed by a Party other than the Registrant ¨

Check the appropriate box:

¨ Preliminary Proxy Statement

x Definitive Proxy Statement

¨ **Confidential, for Use of the Commission Only(as permitted by Rule 14a-6(e)(2))**

¨ Definitive Additional Materials

¨ Soliciting Material Pursuant to §240.14a-12

EMBARCADERO TECHNOLOGIES, INC.

(Name of Registrant as Specified in its Charter)

N/A

(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

Payment of Filing Fee (Check the appropriate box):

¨ No fee required.

¨ Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.

1) Title of each class of securities to which transaction applies:

2) Aggregate number of securities to which transaction applies:

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4) Proposed maximum aggregate value of transaction:

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1) Amount Previously Paid:

2) Form, Schedule or Registration Statement No.:

3) Filing Party:

4) Date Filed:

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EMBARCADERO TECHNOLOGIES, INC.

100 California Street, 12th Floor

San Francisco, California 94111

May 24, 2007

Dear Fellow Stockholder:

You are cordially invited to attend the Special Meeting of Stockholders (the ***special meeting***) of Embarcadero Technologies, Inc. (***Embarcadero***, ***Company***, ***we***, ***us***, or ***our***), which will be held on Friday, June 22, 2007, at 10:00 a.m., local time, at the Company s principal executive offices located at 100 California Street, 12th Floor, San Francisco, California 94111. The Company s telephone number is (415) 834-3131.

At this meeting, you will be asked to consider and vote upon a proposal to adopt an agreement and plan of merger, dated as of April 5, 2007, by and among EMB Holding Corp., EMBT Merger Corp. and the Company (the ***merger agreement***), pursuant to which EMBT Merger Corp. will be merged with and into the Company, with the Company continuing as the surviving corporation. If the merger is completed, each share of Company common stock issued and outstanding at the effective time of the merger will be converted into the right to receive $7.20 in cash, without interest, other than shares held by the Company or any of its subsidiaries or EMB Holding Corp., which will be cancelled without payment, and shares held by stockholders who are entitled to, and who properly exercise and perfect, appraisal rights in compliance with all of the required procedures under Delaware law.

If the merger is completed, the Company will continue its operations as a privately-held company owned by an affiliate of Thoma Cressey Bravo, Inc., a private equity firm.

As a result of the merger, the Company s shares will no longer be quoted on The NASDAQ Global Select Market.

Our board of directors approved the merger agreement and the transactions contemplated by the merger agreement and determined that the merger is fair to, advisable and in the best interests of our stockholders. **The board of directors recommends that you vote FOR the adoption of the merger agreement.**

The proxy statement accompanying this letter provides you with information about the proposed merger and the special meeting. We encourage you to read the entire proxy statement carefully, including the merger agreement and the other documents annexed to the proxy statement. You may also obtain more information about Embarcadero from documents we have filed with the Securities and Exchange Commission.

Your vote is very important. The merger cannot be completed unless the merger agreement is adopted by the affirmative vote of the holders of a majority of the outstanding shares of Embarcadero common stock. **If you fail to vote on the merger agreement, the effect will be the same as a vote against the adoption of the merger agreement for purposes of the vote referred to above.**

ALL STOCKHOLDERS ARE CORDIALLY INVITED TO ATTEND THE MEETING IN PERSON. WHETHER OR NOT YOU PLAN TO ATTEND THE MEETING, PLEASE COMPLETE, DATE, SIGN AND RETURN THE ENCLOSED PROXY AS PROMPTLY AS POSSIBLE IN ORDER TO ENSURE YOUR REPRESENTATION AT THE MEETING. ALTERNATIVELY, YOU MAY SUBMIT A PROXY OVER THE INTERNET OR BY TELEPHONE, AS INDICATED ON THE PROXY CARD. EVEN IF YOU HAVE GIVEN YOUR PROXY, YOU MAY STILL VOTE IN PERSON IF YOU ATTEND THE MEETING. PLEASE NOTE, HOWEVER, THAT IF YOUR SHARES ARE HELD OF RECORD BY A BROKER, BANK OR OTHER NOMINEE AND YOU WISH TO VOTE AT THE MEETING, YOU MUST OBTAIN FROM THE RECORD HOLDER A PROXY ISSUED IN YOUR NAME.

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Submitting a proxy will not prevent you from voting your shares in person if you subsequently choose to attend the special meeting.

We thank you for your support and look forward to seeing you at the meeting.

Sincerely,

/s/ Michael Shahbazian
Michael Shahbazian

Senior Vice President and Chief Financial Officer

Neither the Securities and Exchange Commission nor any state securities regulatory agency has approved or disapproved the merger, passed upon the merits or fairness of the merger or the merger agreement or passed upon the adequacy or accuracy of the information contained in the accompanying proxy statement. Any representation to the contrary is a criminal offense.

THE ACCOMPANYING PROXY STATEMENT IS DATED MAY 24, 2007

AND IS FIRST BEING MAILED TO STOCKHOLDERS ON OR ABOUT MAY 31, 2007.

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EMBARCADERO TECHNOLOGIES, INC.

100 California Street, 12th Floor

San Francisco, California 94111

(415) 834-3131

NOTICE OF SPECIAL MEETING OF STOCKHOLDERS

To be Held on June 22, 2007

To Our Stockholders:

Notice is hereby given that a special meeting of stockholders of Embarcadero Technologies, Inc., a Delaware corporation (the ***Company***), will be held on Friday, June 22, 2007, at 10:00 a.m., local time, at the Company s principal executive offices located at 100 California Street, 12th Floor, San Francisco, California 94111, for the following purposes:

1. To consider and vote upon a proposal to adopt the Agreement and Plan of Merger, dated as of April 5, 2007, by and among EMB Holding Corp., EMBT Merger Corp. and the Company (the ***merger agreement***), pursuant to which, upon the merger becoming effective, each share of common stock, par value $0.001 per share, of the Company will be converted into the right to receive $7.20 in cash, without interest, other than shares held by the Company or any of its subsidiaries or EMB Holding Corp., which will be cancelled without payment, and shares held by stockholders who are entitled to, and who properly exercise and perfect, appraisal rights in compliance with all of the required procedures under Delaware law;

2. To approve the adjournment of the meeting, if necessary, to solicit additional proxies if there are insufficient votes at the time of the meeting to adopt the merger agreement; and

3. To act upon such other business as may properly come before the special meeting or any adjournment or postponement of the special meeting.

Only holders of the Company s common stock at the close of business on May 1, 2007 are entitled to notice of and to vote at the special meeting and any adjournment or postponement of the special meeting.

You are cordially invited to attend the meeting in person.

Your vote is important, regardless of the number of shares of the Company s common stock that you own. The adoption of the merger agreement requires the affirmative vote of the holders of a majority of the outstanding shares of the Company s common stock entitled to vote on that proposal. The proposal to adjourn the meeting, if necessary, to solicit additional proxies requires the affirmative vote of a majority of the shares present and entitled to vote on the matter at the special meeting.

Even if you plan to attend the meeting in person, please complete, sign, date and return the enclosed proxy to ensure that your shares will be represented at the meeting if you are unable to attend. If you sign, date and mail your proxy card without indicating how you wish to vote, your vote will be counted as a vote in favor of the adoption of the merger agreement, in favor of the proposal to adjourn the meeting, if necessary, to solicit additional proxies, and in accordance with the recommendation of our board of directors on any other matters properly brought before the meeting for a vote. If you fail to return your proxy card, the effect will be that your shares will not be counted for purposes of determining whether a quorum is present at the meeting and will have the same effect as a vote against the adoption of the merger agreement, but will not affect the outcome of the vote regarding the adjournment of the meeting, if necessary, to solicit additional proxies. Alternatively, you may submit a proxy for your shares over the Internet or by telephone, as indicated on the proxy card. If you are a stockholder of record and do attend the meeting, you may vote in person.

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YOUR VOTE IS IMPORTANT!

ALL STOCKHOLDERS ARE CORDIALLY INVITED TO ATTEND THE MEETING IN PERSON. WHETHER OR NOT YOU PLAN TO ATTEND THE MEETING, PLEASE COMPLETE, DATE, SIGN AND RETURN THE ENCLOSED PROXY AS PROMPTLY AS POSSIBLE IN ORDER TO ENSURE YOUR REPRESENTATION AT THE MEETING. A RETURN ENVELOPE (WHICH IS POSTAGE PREPAID IF MAILED IN THE UNITED STATES) IS ENCLOSED FOR THAT PURPOSE. ALTERNATIVELY, YOU MAY SUBMIT A PROXY OVER THE INTERNET OR BY TELEPHONE, AS INDICATED ON THE PROXY CARD. EVEN IF YOU HAVE GIVEN YOUR PROXY, YOU MAY STILL VOTE IN PERSON IF YOU ATTEND THE MEETING. PLEASE NOTE, HOWEVER, THAT IF YOUR SHARES ARE HELD OF RECORD BY A BROKER, BANK OR OTHER NOMINEE AND YOU WISH TO VOTE AT THE MEETING, YOU MUST OBTAIN FROM THE RECORD HOLDER A PROXY ISSUED IN YOUR NAME.

Stockholders of the Company who do not vote in favor of the adoption of the merger agreement will have the right to seek appraisal of the fair value of their shares if the merger is completed, but only if they submit a written demand for appraisal to the Company before the vote is taken on the merger agreement and they comply with all of the other requirements of Delaware law, which are summarized in the accompanying proxy statement.

By Order of the Board of Directors,

/s/ Michael Shahbazian
Michael Shahbazian

Senior Vice President and Chief Financial Officer

San Francisco, California

May 24, 2007

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SUMMARY TERM SHEET

The following summary term sheet highlights selected information from this proxy statement and may not contain all of the information that may be important to you. Accordingly, we encourage you to read carefully this entire proxy statement, its annexes and the documents referred to or incorporated by reference in this proxy statement. In this proxy statement, the terms Embarcadero, Company, we, our, ours, and us refe Embarcadero Technologies, Inc. and its subsidiaries, taken together unless the context requires otherwise.

The Merger and Related Matters

The Merger. You are being asked to vote to adopt an agreement and plan of merger among EMB Holding Corp. (***Parent***), EMBT Merger Corp. and Embarcadero, which provides for the merger of EMBT Merger Corp. with and into Embarcadero. Upon the completion of the merger, Embarcadero will be the surviving corporation and a wholly-owned subsidiary of Parent, and the separate existence of EMBT Merger Corp. will cease. We refer to the agreement and plan of merger in this proxy statement as the merger agreement. See Proposal No. 1 The Merger Agreement beginning on page 49. A copy of the merger agreement is attached as *Annex A* to this proxy statement.

Parties to the Merger. See The Parties to the Merger beginning on page 41.

Embarcadero Technologies, Inc. Embarcadero was incorporated in California on July 23, 1993 and reincorporated in Delaware on February 15, 2000. Embarcadero is a leading provider of strategic data management solutions that help companies to improve the availability, integrity, accessibility and security of corporate data. Embarcadero develops, markets, sells and supports software that helps customers to manage corporate data more effectively.

EMBT Merger Corp. EMBT Merger Corp. is a Delaware corporation that was incorporated on August 24, 2006 solely for the purpose of completing the merger and related transactions. EMBT Merger Corp. has not participated in any activities to date other than activities incident to its formation and the transactions contemplated by the merger agreement.

EMB Holding Corp. EMB Holding Corp. is a Delaware corporation that was incorporated on August 24, 2006 solely for the purpose of completing the merger and related transactions. Parent is the sole stockholder of EMBT Merger Corp.

Other Participants. See Other Participants beginning on page 42.

Thoma Cressey Bravo, Inc. Thoma Cressey Bravo, Inc. (***TCB***) is a Delaware corporation and its principal business is investing in strategic business opportunities, principally in the information technology, healthcare, business services and consumer products and services fields. TCB was incorporated in the state of Delaware on December 19, 1997. In connection with the merger, TCB formed EMBT Holdings, Inc. to hold all of the shares of Parent.

EMBT Holdings, Inc. EMBT Holdings, Inc. is an affiliate of TCB and was incorporated in Delaware on August 24, 2006 solely for the purpose of holding the shares of Parent. EMBT Holdings, Inc. has not participated in any activities to date other than activities incident to its formation. EMBT Holdings, Inc. is the sole stockholder of Parent. In connection with the merger, TCB, together with other potential investors including Thoma Cressey Fund VIII, L.P. (collectively, the ***Investors***), are expected to make equity investments in EMBT Holdings, Inc., which will be used to fund the equity capital of Parent. Thoma Cressey Fund VIII, L.P. is an affiliated fund of TCB and invests largely in companies in the software and healthcare industries, as well as in areas such as business services and consumer products and services.

Payment for Common Stock. If the merger is completed, each share of Embarcadero common stock issued and outstanding at the effective time of the merger will be converted into the right to receive $7.20 in cash, without interest, other than shares held by us or any of our subsidiaries, or EMB Holding

Corp., which shares will be cancelled without payment, and shares held by stockholders who are entitled to, and who properly exercise and perfect, appraisal rights in compliance with all of the required procedures under Delaware law. See The Merger Agreement Treatment of Stock and Options beginning on page 49.

Treatment of Options. Immediately prior to the effective time of the merger, all outstanding options to purchase Embarcadero common stock will accelerate and become fully vested. Upon completion of the merger, any options having an exercise price equal to or greater than $7.20 per share will be cancelled without payment and any options having an exercise price less than $7.20 per share will entitle the holder thereof to receive an amount in cash equal to the product of (i) the total number of shares of Embarcadero common stock subject to the option, multiplied by (ii) the excess of $7.20 over the exercise price per share of Embarcadero common stock underlying such option, less any applicable withholding taxes. Each of the Company s equity incentive plans will be terminated upon completion of the merger. See The Merger Agreement Treatment of Stock and Options beginning on page 49.

Treatment of Restricted Stock. If any share of restricted Embarcadero common stock outstanding immediately prior to the effective time of the merger is unvested or subject to a repurchase option, then, effective immediately prior to the completion of the merger, any such share of restricted common stock will accelerate and become fully vested and any repurchase option will lapse. Thereafter, each such share will be converted into the right to receive $7.20 in cash, without interest. See The Merger Agreement Treatment of Restricted Stock beginning on page 49.

Effect of the Merger on Embarcadero. After the merger, Embarcadero s shares will no longer be quoted on The NASDAQ Global Select Market. In addition, Embarcadero will terminate the registration of Embarcadero common stock under the Securities Exchange Act of 1934.

Board of Directors Recommendation. In evaluating the merger, our board of directors considered a number of factors, including, among other things, the challenges facing the Company to increase stockholder value as an independent publicly-traded company, our current business and prospects, financial condition and results of operations, the consideration to be received by our stockholders pursuant to the merger, comparable transactions and a fairness opinion, dated April 5, 2007, from Morgan Stanley & Co. Incorporated (***Morgan Stanley***), the financial advisor to the board of directors, which is described below. **After careful consideration of these and other factors, our board of directors approved the merger agreement and related documents and determined to recommend that our stockholders vote FOR the adoption of the merger agreement.** See The Merger Background of the Merger beginning on page 13 and The Merger Recommendation of the Board of Directors beginning on page 25.

Opinion of Financial Advisor. Our board of directors received a fairness opinion, dated April 5, 2007, from Morgan Stanley, the financial advisor to the board of directors, to the effect that, as of that date and based upon and subject to the assumptions, qualifications and limitations set forth in the opinion, the merger consideration of $7.20 per share to be received by holders of shares of Embarcadero common stock pursuant to the merger agreement is fair from a financial point of view to the holders of Embarcadero common stock, other than one or more officers of Embarcadero who are investing a portion of their proceeds from the merger in the capital stock of EMBT Holdings Inc. Embarcadero has agreed to pay Morgan Stanley a fee for its services of approximately $3.0 million, a substantial portion of which is contingent upon the completion of the merger. See The Merger Opinion of Morgan Stanley & Co. Incorporated beginning on page 27. A copy of Morgan Stanley s opinion is attached as *Annex B* to this proxy statement.

Interests of Certain Persons in the Merger. Some of our directors and officers have interests in the merger that may be different from, or in addition to, the interests that apply to our stockholders generally. These interests include the following:

All outstanding options to purchase Embarcadero common stock, including those held by our directors and officers other than certain options granted to our directors and officers that were

cancelled in connection with the execution of the merger agreement, will accelerate and become fully vested immediately prior to the completion of the merger, and in the case of any options having a per share exercise price less than $7.20, will entitle the holder thereof to receive an amount in cash equal to the product of (i) the total number of shares of Embarcadero common stock subject to the option, multiplied by (ii) the excess of $7.20 over the exercise price per share, less applicable withholding taxes;

All outstanding shares of restricted Embarcadero common stock, including those held by our officers, will accelerate and become fully vested immediately prior to the completion of the merger, and any repurchase option will lapse, after which each such share will be converted into the right to receive $7.20 in cash, without interest, less applicable withholding taxes;

Pursuant to the terms of his existing employment agreement with us, Michael Shahbazian, our Chief Financial Officer, will be entitled to accelerated vesting of all unvested stock options and restricted common stock held by him, as well as certain other severance benefits, upon the completion of the merger and the termination of his employment as Chief Financial Officer after the merger;

Mr. Shahbazian will also receive a one-time transaction bonus of $100,000 payable upon consummation of the merger;

As the surviving corporation, Embarcadero is required after completion of the merger to maintain certain indemnification and insurance policies applicable to the existing directors and executive officers of the Company;

Raj Sabhlok will become the Chief Executive Officer of the surviving corporation after the merger pursuant to an employment agreement entered into in connection with the execution of the merger agreement and to become effective upon the completion of the merger that provides for, among other things, severance payments under certain circumstances and the right to receive management incentive equity awards in EMBT Holdings, Inc.;

Pursuant to his employment agreement, Mr. Sabhlok will be entitled upon completion of the merger to invest $720,000 in shares of capital stock of EMBT Holdings, Inc. on the same terms as the other investors in EMBT Holdings, Inc.; and

We expect that each of Scott Schoonover, Greg Davoll, Greg Keller and Wayne Williams will also enter into employment agreements with the surviving corporation prior to the completion of the merger and that each will accordingly continue as an officer of the surviving corporation after the merger.

Our board of directors was aware of these interests and considered them, among other things, when approving the merger agreement. See The Merger Interests of Certain Persons in the Merger beginning on page 37.

Financing of the Merger. TCB estimates that the total amount of funds required to pay the aggregate merger consideration in connection with the merger will be approximately $200,000,000. TCB expects this amount, together with the related working capital requirements of Embarcadero following the completion of the merger, to be provided through a combination of the proceeds of the following:

an aggregate cash equity investment in EMBT Holdings, Inc. by TCB and the other Investors of up to approximately $52,000,000;

new senior secured credit facilities in the aggregate amount of $100,000,000, consisting of two term loans in the amounts of $65,000,000 and $25,000,000, respectively, and a $10,000,000 revolving credit facility; and

cash and cash equivalents held by Embarcadero.
See The Merger Financing of the Merger beginning on page 36.

Sponsor Guarantee. Thoma Cressey Fund VIII, L.P. has agreed to be responsible for the performance by Parent and EMBT Merger Corp. of all of their obligations under the merger agreement, up to a maximum amount of $5,000,000. See Other Agreements Limited Guarantee beginning on page 63.

Other Offers. The merger agreement restricts our ability to, among other things, solicit or engage in discussions or negotiations with a third party regarding specified transactions involving Embarcadero. However, under specified circumstances, our board of directors may terminate the merger agreement if it receives and accepts a superior proposal, as defined in the merger agreement, subject to the payment of a termination fee of $5,000,000 to Parent and the fulfillment of certain other conditions. See The Merger Agreement No Solicitation of Transactions beginning on page 56 and The Merger Agreement Termination beginning on page 60.

Tax Consequences. Generally, the exchange of your shares for cash pursuant to the merger will be taxable for U.S. federal income tax purposes. You will recognize taxable gain or loss in the amount of the difference between $7.20 per share that you receive and your adjusted tax basis for each share of Embarcadero common stock that you own. See The Merger Material U.S. Federal Income Tax Consequences beginning on page 39.

Conditions. The completion of the merger pursuant to the merger agreement is subject, among other things, to (i) adoption of the merger agreement by the holders of a majority of the outstanding shares of Embarcadero common stock; (ii) the delivery by an appraisal firm to our board of directors of an opinion indicating that, among other things, after giving effect to the merger and related transactions, Embarcadero will not be insolvent and will have assets sufficient to pay its debts and other obligations and to conduct its business, (iii) expiration or termination of the applicable waiting period under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (the ***HSR Act***), which condition has been met, (iv) purchase by Parent or the surviving corporation of a directors and officers insurance policy that provides coverage for acts or omissions of our existing directors and officers occurring prior to the effective time of the merger, (v) no material adverse effect relating to Embarcadero, and (vi) filing by Embarcadero with the SEC of its Quarterly Report on Form 10-Q for the quarter ended September 30, 2006 and its Annual Report on Form 10-K for the year ended December 31, 2006, which condition has been met. Although the merger is not contingent on any financing, neither Parent nor EMBT Merger Corp. has any material assets and Thoma Cressey Fund VIII, L.P. has only guaranteed their performance under the merger agreement up to a maximum amount of $5,000,000. See The Merger Agreement Conditions to the Merger beginning on page 59.

The Special Meeting and Related Matters

Date, Time and Place. The special meeting of our stockholders will be held on Friday, June 22, 2007, at 10:00 a.m., local time, at our principal executive offices located at 100 California Street, 12th Floor, San Francisco, California 94111.

Record Date and Voting. You are entitled to vote at the special meeting if you owned shares of Embarcadero common stock at the close of business on May 1, 2007, the record date for the special meeting. Each outstanding share of Embarcadero common stock on the record date entitles the holder to one vote on each matter submitted to stockholders for approval at the special meeting. As of the close of business on the record date, there were 26,134,970 shares of common stock of Embarcadero entitled to be voted at the special meeting. See The Special Meeting Record Date, Quorum and Voting Power beginning on page 46.

Stockholder Vote Required to Adopt the Merger Agreement. For Embarcadero to complete the merger, stockholders holding at least a majority of the shares of Embarcadero common stock outstanding at the close of business on the record date must vote **FOR** the adoption of the merger agreement. See The Special Meeting Required Vote beginning on page 46.

Share Ownership of Directors and Executive Officers. As of the close of business on the record date for the special meeting, our directors and executive officers held and are entitled to vote, in the aggregate, 305,955 shares of Embarcadero common stock, representing approximately 1.17% of the outstanding shares of our common stock. Stephen Wong, our former Chairman, President and Chief

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Executive Officer, held, as of the close of business on the record date for the special meeting, and is entitled to vote 4,385,000 shares of Embarcadero common stock, representing approximately 16.78% of the outstanding shares of our common stock. Each of Stephen Wong, Raj Sabhlok, our Senior Vice President of Operations, Michael Shahbazian, our Chief Financial Officer, Wayne Williams, our Chief Technology Officer, and Scott Schoonover, our Vice President, Worldwide Sales, has agreed to vote, or cause to be voted or consented, all of his shares of our common stock and those acquired after the date of the voting agreements, if any, in favor of the adoption of the merger agreement. As of the record date, the voting agreements executed by Messrs. Wong, Sabhlok, Shahbazian, Williams and Schoonover cover an aggregate of 4,775,955 shares of Embarcadero common stock, representing approximately 18.27% of the shares of Embarcadero common stock entitled to vote upon the adoption of the merger agreement. In addition to the shares that Messrs. Wong, Sabhlok, Shahbazian, Williams and Schoonover have agreed to vote in favor of adoption of the merger agreement pursuant to the voting agreements, the affirmative vote of holders of Embarcadero common stock representing at least 8,291,531 shares of our common stock, or approximately 31.73% of the outstanding shares of our common stock, will be required to adopt the merger agreement. See The Special Meeting Voting by Directors and Executive Officers beginning on page 47. A copy of the form of voting agreement entered into by each of Messrs. Wong, Sabhlok, Shahbazian, Williams and Schoonover is included as Exhibit A to the merger agreement, which is attached as *Annex A* to this proxy statement.

Appraisal Rights of Stockholders. Under Delaware law, you are entitled to appraisal rights in connection with the merger. As a result, you will have the right under Delaware law to have the fair value of your shares of Embarcadero common stock determined by the Delaware Chancery Court. This right to appraisal is subject to a number of restrictions and procedural requirements. Generally, in order to exercise your appraisal rights, you must:

- send a written demand to Embarcadero for appraisal in compliance with the General Corporation Law of the State of Delaware before the vote on the adoption of the merger agreement;
- not vote in favor of the adoption of the merger agreement; and
- continuously hold your Embarcadero common stock from the date you make the demand for appraisal through the effective date of the merger.

Merely voting against the adoption of the merger agreement will not protect your rights to an appraisal, which requires you to take all the steps provided under Delaware law. Delaware law requirements for exercising appraisal rights are described in further detail in this proxy statement. See Appraisal Rights beginning on page 67. In addition, Section 262 of the General Corporation Law of the State of Delaware, which is the section of Delaware law regarding appraisal rights, is reproduced and attached as *Annex C* to this proxy statement.

If you vote for the adoption of the merger agreement, you will waive your rights to seek appraisal of your shares of Embarcadero common stock under Delaware law.

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QUESTIONS AND ANSWERS ABOUT THE MERGER AND THE SPECIAL MEETING

The following questions and answers briefly address some commonly asked questions about the merger and the special meeting. They may not include all of the information that may be important to you. We urge you to read carefully this entire proxy statement, including the annexed documents and the other documents we refer to and incorporate by reference in this proxy statement.

Q: What matters will I be asked to vote on at the special meeting?

A: You will be asked to vote upon the following proposals:

the adoption of the merger agreement, which provides for the merger of EMBT Merger Corp. with and into Embarcadero;

the approval of the adjournment of the special meeting, if necessary, to solicit additional proxies if there are insufficient votes at the time of the special meeting to adopt the merger agreement; and

such other business as may properly come before the special meeting.

Q: What will happen to Embarcadero as a result of the merger?

A: Embarcadero will continue its operations as a privately-held company directly held by Parent, which is a wholly-owned subsidiary of EMBT Holdings, Inc. After the merger, EMBT Holdings, Inc. will be controlled by TCB and the other Investors. Our common stock will no longer be publicly traded, and we will no longer file periodic and other reports with the Securities and Exchange Commission with respect to our common stock or proxy or information statements with respect to stockholders meetings.

Q: What will I receive for my Embarcadero common stock if the merger is completed?

A: If the merger is completed, you will no longer own shares of Embarcadero common stock. If the merger is completed, each share of your Embarcadero common stock will be converted into the right to receive $7.20 in cash, without interest, unless you validly exercise and perfect appraisal rights in compliance with all of the required procedures under Delaware law, in which case your shares will be subject to appraisal in accordance with Delaware law.

Q: What will happen to my stock options in the merger?

A: Immediately prior to the effective time of the merger, all outstanding options to acquire Embarcadero common stock will accelerate and become fully vested. Upon the completion of the merger, any options having an exercise price equal to or greater than $7.20 per share will be cancelled without payment and any options having an exercise price less than $7.20 per share will entitle the holder thereof to receive an amount in cash, without interest, less applicable withholding taxes, equal to the product of (i) the total number of shares of Embarcadero common stock subject to the option, multiplied by (ii) the excess of $7.20 over the exercise price per share of Embarcadero common stock underlying such option, which cash amount we refer to as the option consideration. Each of the Company s equity incentive plans will be terminated upon the completion of the merger.

Q: What will happen to my restricted shares of Embarcadero common stock in the merger?

A: If any shares of your restricted common stock outstanding immediately prior to the effective time of the merger is unvested or subject to a repurchase option, then, effective immediately prior to the completion of the merger, any such share of restricted common stock will accelerate and become fully vested and any repurchase option will lapse. Thereafter, each such share will be converted into the right to receive $7.20 in cash, without interest.

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Q: How does Embarcadero s board of directors recommend that I vote on the merger?
A: Our board of directors approved the merger agreement and related documents and determined that the merger, on the terms and conditions set forth in the merger agreement, is fair to, advisable and in the best interests of our stockholders. **The board of directors recommends that you vote FOR the adoption of the merger agreement.**

Q: Do any members of the board of directors or management of Embarcadero have interests in the merger that may be different from my interests as a stockholder?

A: Yes, some of our directors and officers have interests in the merger that may be different from, or in addition to, the interests that apply to our stockholders generally, including the following:

All outstanding options to purchase Embarcadero common stock, including those held by our directors and executive officers other than certain options granted to our directors and executive officers that were cancelled in connection with the execution of the merger agreement, will accelerate and become fully vested immediately prior to the completion of the merger, and in the case of any options having an exercise price less than $7.20 per share, will entitle the holder thereof to receive the option consideration;

All outstanding shares of restricted Embarcadero common stock, including those held by our executive officers, will accelerate and become fully vested immediately prior to the completion of the merger, and any repurchase option will lapse, after which each such share will be converted into the right to receive $7.20 in cash, without interest;

Pursuant to the terms of his existing employment agreement with us, Michael Shahbazian, our Chief Financial Officer, will be entitled to accelerated vesting of all unvested stock options and restricted common stock held by him, as well as certain other severance benefits, upon the completion of the merger and the termination of his employment as Chief Financial Officer after the merger;

Mr. Shahbazian will also receive a one-time transaction bonus of $100,000 payable upon consummation of the merger;

As the surviving corporation, Embarcadero is required after completion of the merger to maintain certain indemnification and insurance policies applicable to the existing directors and executive officers of the Company;

Raj Sabhlok will become the Chief Executive Officer of the surviving corporation after the merger pursuant to an employment agreement entered into in connection with the execution of the merger agreement and to become effective upon completion of the merger that provides for, among other things, severance payments under certain circumstances and the right to receive management incentive equity awards in EMBT Holdings, Inc.;

Pursuant to his employment agreement, Mr. Sabhlok will be entitled to invest, on the same terms as the other Investors, $720,000 of his proceeds from the merger in shares of capital stock of EMBT Holdings, Inc., representing approximately 1.28% of the equity capital of that company, upon completion of the merger; and

We expect that each of Scott Schoonover, Greg Davoll, Greg Keller and Wayne Williams will also enter into employment agreements with the surviving corporation prior to the completion of the merger and that each will accordingly continue as an officer of the surviving corporation after the merger.

See The Merger Interests of Certain Persons in the Merger beginning on page 37.

Q: What are EMBT Merger Corp., EMB Holding Corp. and EMBT Holdings, Inc.?

A: EMBT Merger Corp. was incorporated in Delaware on August 24, 2006 solely for the purpose of completing the merger and related transactions. EMB Holding Corp., or Parent, is the sole stockholder of EMBT Merger Corp., and was incorporated in Delaware on August 24, 2006 solely for the purpose of completing the merger and related transactions. EMBT Holdings, Inc. was incorporated in Delaware on August 24, 2006 solely for the purpose of holding the shares of Parent. Upon the completion of the merger, the Investors are expected to make equity investments in EMBT Holdings, Inc., which will be used to fund the equity capital of Parent.

Q: How will EMBT Merger Corp. and Parent pay the merger consideration?

A: EMBT Merger Corp. and Parent will pay the merger consideration from the proceeds of equity investments in EMBT Holdings, Inc., the sole stockholder of Parent, to be made by the Investors, in connection with the merger. In addition, it is anticipated that debt financing arrangements to be entered into in connection with the merger, together with cash and cash equivalents held by Embarcadero and its subsidiaries, will be used to fund payment of a portion of the merger consideration and to fund the business and operations of Embarcadero after the merger. For more information about the financing of the merger, see The Merger Financing of the Merger beginning on page 36.

Q: When do you expect the merger to be completed?

A: We are working to complete the merger as quickly as possible, and we anticipate that it will be completed in the second quarter of 2007. In order to complete the merger, we must obtain stockholder approval, and the other closing conditions under the merger agreement must be satisfied or waived. See The Merger Agreement Conditions to the Merger beginning on page 59 and The Merger Agreement Effective Time beginning on page 49.

Q: What are the conditions to the completion of the merger?

A: The completion of the merger is subject to a number of conditions, including, among others:

- adoption of the merger agreement by the holders of a majority of the outstanding shares of our common stock;
- the absence of any law or order that prevents or prohibits completion of the merger;
- the receipt from all governmental authorities and third parties of all material consents, approvals and authorizations required in order to complete the merger;
- the expiration or termination of the applicable waiting period under the HSR Act, which condition has been met;
- the purchase by Parent or the surviving corporation of a directors and officers insurance policy that provides coverage for acts on omissions of our existing directors and officers occurring prior to the effective time of the merger;
- the accuracy of the representations and warranties made by us, Parent and EMBT Merger Corp. in the merger agreement, subject to specified materiality thresholds;
- the performance, in all material respects, by us, Parent and EMBT Merger Corp. of the covenants and agreements in the merger agreement;
- the absence of any occurrence that has had a material adverse effect on Embarcadero;
- the delivery of specified certifications;

- the delivery of a solvency opinion to our board of directors; and

- the filing with the SEC of our Quarterly Report on Form 10-Q for the quarter ended September 30, 2006 and our Annual Report on Form 10-K for the year ended December 31, 2006, which condition has been met.

If all of these conditions are not either satisfied or waived, the merger will not be completed even if our stockholders vote to adopt the merger agreement. See The Merger Agreement Conditions to the Merger beginning on page 59.

Q: Will I owe any U.S. federal income tax as a result of the merger?

A: Generally, the exchange of your shares for cash pursuant to the merger will be taxable for U.S. federal income tax purposes. You will recognize taxable gain or loss in the amount of the difference between $7.20 per share that

you receive and your adjusted tax basis for each share of Embarcadero common stock that you own. For further information about the U.S. federal income tax consequences of the merger, see The Merger Material U.S. Federal Income Tax Consequences beginning on page 39.

Q: When and where is the special meeting?

A: The special meeting will be held on Friday, June 22, 2007, at 10:00 a.m., local time, at Embarcadero s principal executive offices located at 100 California Street, 12th Floor, San Francisco, California 94111.

Q: Who can vote on the merger agreement?

A: Holders of our common stock at the close of business on May 1, 2007, the record date for the special meeting, may vote in person or by proxy on the merger agreement at the special meeting.

Q: What vote of stockholders is required to adopt the merger agreement?

A: In order to complete the merger, stockholders holding at least a majority of the shares of our common stock outstanding at the close of business on the record date must vote **FOR** the adoption of the merger agreement.

Q: What vote of stockholders is required for the proposal to adjourn the meeting?

A: The proposal to adjourn the meeting, if necessary, to solicit additional proxies requires the affirmative vote of a majority of the shares present and entitled to vote on the matter at the special meeting.

Q: Are any stockholders required to vote in favor of adopting the merger agreement?

A: Yes. Under the terms of voting agreements entered into in connection with the merger agreement, Messrs. Wong, Sabhlok, Shahbazian, Williams and Schoonover have agreed to vote all shares of Embarcadero common stock currently held or subsequently acquired by them in favor of adopting the merger agreement. As of the record date, the voting agreements executed by Messrs. Wong, Sabhlok, Shahbazian, Williams and Schoonover cover an aggregate of 4,775,955 shares of Embarcadero common stock, representing approximately 18.27% of the shares of our common stock entitled vote upon the adoption of the merger agreement.

Q: What does it mean if I receive more than one proxy card?

A: If you have shares of our common stock that are registered differently and are in more than one account, you will receive more than one proxy card. Please follow the directions for voting on each of the proxy cards you receive to ensure that all of your shares are voted.

Q: How do I vote without attending the special meeting?

A: If you hold shares in your name as the stockholder of record, then you received this proxy statement and a proxy card from us. If you hold shares in street name through a broker, bank or other nominee, then you received this proxy statement from the nominee, along with the nominee s form of proxy card which includes voting instructions. In either case, you may submit a proxy for your shares by Internet, telephone or mail without attending the special meeting. To submit a proxy by mail, mark, sign and date the proxy card and return it in the postage-paid envelope provided. To submit a proxy by Internet or telephone, 24 hours a day, seven days a week, follow the instructions on the proxy card. Internet and telephone proxy submission provide the same authority to vote your shares as if you returned your proxy card by mail.

Q: How do I vote in person at the special meeting?

A: If you hold shares in your name as the stockholder of record, you may vote those shares in person at the special meeting by giving us a signed proxy card or ballot before voting is closed. If you want to do that, please

bring proof of identification with you. Even if you plan to attend the special meeting, we recommend that you submit a proxy for your shares in advance as described above, so your vote will be counted even if you later decide not to attend.

If you hold shares in street name through a broker, bank or other nominee, you may vote those shares in person at the special meeting only if you obtain and bring with you a signed proxy from the necessary nominee giving you the right to vote the shares. To do this, you should contact your nominee.

Q: Can I change my vote?

A: After you submit a proxy for your shares, whether by Internet, telephone or mail, you may change your vote at any time before voting is closed at the special meeting. If you hold shares in your name as the stockholder of record, you should write to our Corporate Secretary at our principal offices, 100 California Street, 12th Floor, San Francisco, California 94111, stating that you want to revoke your proxy and that you need another proxy card. If you hold your shares in street name through a broker, bank or other nominee, you should contact the nominee and ask for a new proxy card. Alternatively, you may submit a proxy again by Internet or telephone. If you attend the special meeting, you may vote by proxy or ballot as described above, which will cancel your previous vote. Your last vote before voting is closed at the special meeting is the vote that will be counted.

Q: What happens if I do not respond?

A: For purposes of the proposal to adopt the merger agreement, the failure to respond by returning your proxy card will have the same effect as voting against the merger agreement unless you vote for the merger agreement in person at the special meeting. For purposes of any proposal to adjourn the meeting, if necessary, to solicit proxies, the failure to respond by returning your proxy card will not count as a vote entitled to be cast on the proposal but if the failure to respond causes your shares to be deemed to be a broker non-vote, your shares will count for determining whether a quorum is present.

Q: What is a quorum?

A: A quorum of the holders of the outstanding shares of our common stock must be present for the special meeting to be held. A quorum is present if the holders of a majority of the outstanding shares of our common stock entitled to vote are present at the special meeting, either in person or represented by proxy. Abstentions and broker non-votes are counted as present for the purpose of determining whether a quorum is present.

Q: If my shares are held in street name by my broker, will my broker vote my shares for me?

A: Yes, but only if you provide instructions to your broker on how to vote. You should follow the directions provided by your broker regarding how to instruct your broker to vote your shares. Without those instructions, your shares will not be voted.

Q: How are votes counted?

A: For the proposal relating to the adoption of the merger agreement, you may vote FOR, AGAINST or ABSTAIN. Abstentions will not count as votes cast on the proposal relating to adoption of the merger agreement, but will count for the purpose of determining whether a quorum is present. If you ABSTAIN, it has the same effect as if you vote AGAINST the adoption of the merger agreement.

For the proposal to adjourn the meeting, if necessary, to solicit additional proxies if there are insufficient votes at the time of the special meeting to adopt the merger agreement, you may vote FOR, AGAINST or ABSTAIN. Abstentions will not count as votes cast on the proposal to adjourn the meeting, if necessary, to solicit additional proxies, but will count for the purpose of determining whether a quorum is present.

If you sign your proxy card without indicating your vote, your shares will be voted FOR the adoption of the merger agreement, FOR adjournment of the meeting, if necessary, to solicit additional proxies, and in accordance with the recommendations of our board of directors on any other matters properly brought before the meeting for a vote.

A broker non-vote generally occurs when a broker, bank or other nominee holding shares on your behalf does not vote on a proposal because the nominee has not received your voting instructions and lacks discretionary power to vote the shares. Broker non-votes will not count as votes cast on a proposal, but will count for the purpose of determining whether a quorum is present. Broker non-votes will have the same effect as a vote against the adoption of the merger agreement.

Q: Who will bear the cost of this solicitation?

A: We will pay the cost of this solicitation, which will be made primarily by mail. Proxies also may be solicited in person, or by telephone, facsimile, Internet or similar means, by our directors, officers or employees without additional compensation. We will, on request, reimburse stockholders who are brokers, banks or other nominees for their reasonable expenses in sending proxy materials to the beneficial owners of the shares they hold of record.

Q: Should I send in my stock certificates now?

A: No. If the merger is completed, you will receive a letter of transmittal with instructions informing you how to send your stock certificates to the paying agent in order to receive the merger consideration. You should use the letter of transmittal to exchange Embarcadero stock certificates for the merger consideration to which you are entitled as a result of the merger. If your shares are held in street name by your broker, you will receive instructions from your broker as to how to effect the surrender of your street name shares and receive cash for those shares. DO NOT SEND ANY STOCK CERTIFICATES WITH YOUR PROXY.

Q: What rights do I have to seek appraisal for my shares?

A: If you wish, you may seek an appraisal of the fair value of your shares, but only if you comply with all requirements of Delaware law as described in the section of this proxy statement entitled Appraisal Rights beginning on page 67 and in *Annex C* of this proxy statement. Depending upon the determination of the Delaware Court of Chancery, the appraised fair value of your shares of Embarcadero common stock, which will be paid to you if you seek an appraisal and comply with all requirements of Delaware law, may be more than, less than or equal to the per share consideration to be paid pursuant to the merger.

Merely voting against the adoption of merger agreement will not preserve your appraisal rights under Delaware law. In order to validly exercise and perfect appraisal rights under Section 262 of the General Corporation Law of the State of Delaware, among other things, you must not vote for the adoption of the merger agreement and you must deliver to Embarcadero written demand for appraisal in compliance with Delaware law prior to the vote on the merger agreement at the special meeting. Failure to take all of the steps required under Delaware law may result in the loss of your appraisal rights.

Q: Who can help answer my other questions?

A: The information provided above in the summary term sheet and in the question and answer format is for your convenience only and is merely a summary of the information contained in this proxy statement. You should carefully read this entire proxy statement, including the documents annexed to this proxy statement and the documents we refer to or incorporate by reference in this proxy statement. If you have more questions about the special meeting or the merger, you should contact Investor Relations at *investor@embarcadero.com* or by telephone at (415) 834-3131.

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CAUTIONARY STATEMENT CONCERNING FORWARD-LOOKING INFORMATION

This proxy statement, the annexes attached to this proxy statement, the documents incorporated by reference in this proxy statement and the documents to which we refer you in this proxy statement may contain forward-looking statements. These forward-looking statements include, but are not limited to, statements about our plans, objectives, expectations and intentions and other statements that are not historical facts. The words expects, anticipates, intends, plans, believes, seeks, estimates and similar expressions are generally intended to identify forward statements. Because these forward-looking statements involve risks and uncertainties, there are important factors that could cause actual results to differ materially from those expressed or implied by these forward-looking statements, including our plans, objectives, expectations and intentions and other factors discussed under Risk Factors and Management s Discussion and Analysis of Financial Condition and Results of Operations in our Annual Report on Form 10-K and our Quarterly Reports on Form 10-Q filed with the SEC and incorporated by reference in this proxy statement. Factors that could cause or contribute to such differences include but are not limited to:

- matters relating to the recently completed review by a Special Committee of our Board of Directors of our historical stock option grant practices and the restatement of our consolidated financial statements;
- our non-compliance with NASDAQ listing requirements and the potential delisting of our securities;
- our ability to generate revenues from sales of DBArtisan® and our other products;
- the performance of, the levels of customer demand for and satisfaction with, our products;
- our ability to generate new business from existing customers and to add new customers from our existing or new products; and
- the effect of economic conditions on spending in the information technology market.

Statements about the expected timing, completion and effects of the proposed merger and the possibility of satisfying the conditions required to complete the merger also constitute forward-looking statements. We may not be able to complete the proposed merger on the terms described in this proxy statement or other acceptable terms or at all because of a number of factors, including the failure to obtain stockholder approval or the failure to satisfy the other closing conditions. In addition to other factors and matters contained in this document, we believe the following factors could cause actual results to differ materially from those discussed in the forward-looking statements:

- the satisfaction of the conditions to complete the merger, including the receipt of the required stockholder and regulatory approvals;
- the actual terms of the financing arrangements obtained in connection with the merger;
- the occurrence of any event, change or other circumstances that could give rise to the termination of the merger agreement;
- the failure of the merger to close for any other reason;
- the amount of the costs, fees, expenses and charges related to the merger; and

- our substantial indebtedness following the completion of the merger.

All forward-looking statements contained or incorporated by reference in the proxy statement speak only as of the date of this proxy statement or as of such earlier date that those statements were made and are based on current expectations or expectations as of such earlier date and involve a number of assumptions, risks and uncertainties that could cause the actual results to differ materially from such forward-looking statements. We undertake no obligation to release any revisions to such forward-looking statements to reflect events or circumstances after the date of this proxy statement or to reflect the occurrence of unanticipated events. Notwithstanding the foregoing, in the event of any material change in any of the information previously disclosed, we will update such information through a supplement to this proxy statement, to the extent required by applicable law.

THE MERGER

Background of the Merger

In response to preliminary inquiries by three potential strategic buyers, the board of directors, on April 7, 2006, recommended that management engage an investment banking firm to undertake a review of the Company s strategic alternatives. After reviewing its relationships with different investment banking firms and soliciting input from the board of directors, management asked Morgan Stanley to make a presentation to the board of directors regarding such alternatives at a meeting on May 8, 2006. After that meeting and further discussion among the directors, the board of directors resolved to retain Morgan Stanley as its financial advisor at a subsequent board meeting on June 6, 2006 and asked Morgan Stanley to prepare a list of potentially interested strategic and financial parties for the Company. On June 12, 2006, the Company executed an engagement letter with Morgan Stanley. On June 16, 2006, Morgan Stanley presented a list of potentially interested parties to the Board, and the Board authorized Morgan Stanley to approach a select group of potentially interested parties to solicit indications of interest in a transaction with the Company.

In early June 2006, Silver Oak Partners approached Stephen Wong, then the Company s Chairman, President and Chief Executive Officer, on behalf of Thoma Cressey Bravo, Inc. (***TCB***), formerly known as Thoma Cressey Equity Partners, Inc., to discuss a potential acquisition of the Company and to arrange a meeting between representatives of the Company and TCB. On June 19, 2006, Mr. Wong, Raj Sabhlok, the Company s Senior Vice President of Operations, and Michael Shahbazian, the Company s Chief Financial Officer, met with Orlando Bravo, Scott Crabill and Seth Boro, representatives of TCB, and discussed various background and public financial information about the Company and the possibility of a potential acquisition of the Company. At this meeting, TCB made a preliminary proposal to acquire the Company at a price of $7.50 per share in cash. Subsequent to this meeting, TCB was informed of the engagement of Morgan Stanley and asked to coordinate any further contact with Morgan Stanley.

Between July 6 and July 13, 2006, Morgan Stanley and TCB held a series of conversations to negotiate a confidentiality agreement between the Company and TCB and to schedule a second meeting between TCB and representatives of the Company.

In early July 2006, Morgan Stanley also contacted seven additional parties, including four strategic parties and three private equity firms, regarding a potential transaction with the Company and indicated that the board of directors was interested in entertaining offers for the Company. Two of these parties subsequently entered into confidentiality agreements with the Company and met with representatives of the Company during the month of July 2006.

On July 13, 2006, TCB and the Company entered into a Confidentiality Agreement in connection with a potential transaction for the Company. Thereafter, TCB commenced its due diligence review of the Company and its operations, prospects and affairs.

On July 20, 2006, Messrs. Wong and Bravo met to discuss a potential acquisition of the Company by TCB and Mr. Wong s level of interest in continuing to lead the Company following such a transaction. On July 21, 2006, Messrs. Wong, Sabhlok and Shahbazian of the Company met with Messrs. Bravo, Crabill and Boro of TCB and discussed, among other things, the Company s business, customer base, product portfolio, organizational structure and financial projections.

On July 25, 2006, Morgan Stanley contacted an additional party (which had not been previously contacted) regarding a potential transaction with the Company.

On July 30, 2006, TCB delivered to Morgan Stanley a draft letter of intent and form of merger agreement with an offering price of $8.25 per share in cash and requested that the Company enter into the letter of intent, which included an exclusivity period.

Representatives of the Company and TCB met again on July 31, 2006 to discuss various due diligence matters and the draft letter of intent, and met with potential lenders to familiarize these potential lenders with the transaction and the Company s financial ability. Later that day and again on August 1, 2006, the board of directors met with Messrs. Wong, Sabhlok and Shahbazian, Morgan Stanley and Heller Ehrman LLP, counsel to the Company, to discuss the proposal from TCB. Mr. Wong reported to the board of directors on the status of discussions with TCB, TCB s due diligence efforts and the material economic terms and conditions of TCB s proposal. Morgan Stanley then discussed certain issues with the board of directors, including, among other things, Morgan Stanley s preliminary valuation analysis of the Company and the status of discussions with other potential buyers. Heller Ehrman also advised the board of directors of its fiduciary duties in the context of an all cash offer for the Company and entertained questions from the directors concerning their fiduciary duties and the terms of the proposal from TCB. After further deliberations, both in and out of executive session, the Board rejected TCB s offer as inadequate and instructed Morgan Stanley to continue its negotiations with TCB, while furthering discussions with other potential buyers.

Morgan Stanley informed TCB of the board of directors decision on August 1, 2006. On August 2, 2006, TCB made a revised proposal for the Company at $9.00 per share and requested that the Company enter into an exclusivity agreement to enable TCB to complete its due diligence and negotiate a merger agreement with the Company and its legal counsel.

On August 2, 2006, Morgan Stanley contacted an additional party (which had not been previously contacted) regarding a potential transaction with the Company. On August 3, 2006, that party entered into a confidentiality agreement with the Company and held a telephonic meeting with representatives of the Company.

On August 3, 2006, the board of directors met with Messrs. Wong, Sabhlok and Shahbazian and its financial advisor and legal counsel and deliberated about the revised proposal submitted by TCB. Morgan Stanley updated the board on the negotiations with TCB and summarized the terms of its revised proposal and TCB s desire to enter into an exclusivity agreement while it completed its due diligence review. After questions and further discussions, the board of directors authorized the Company to enter into an exclusivity agreement with TCB.

On August 5, 2006, TCB and the Company entered into an exclusivity agreement for a period of up to 15 business days.

From August 6 to August 21, 2006, representatives of TCB conducted further meetings with Messrs. Wong, Sabhlok, and Shahbazian and Wayne Williams, Robert Lamvik and Greg Keller of the Company to review its products, operating results, projections, prospects and obligations. Kirkland & Ellis LLP, legal counsel to TCB, also commenced its legal due diligence review of the Company. On August 8, 2006, Messrs. Wong, Sabhlok and Shahbazian made presentations on the Company s business, products, operating results, projections and prospects to representatives of TCB at the offices of TCB in Chicago, Illinois. On August 10, 2006, Heller Ehrman delivered a revised draft of the merger agreement to Kirkland & Ellis.

On August 21, 2006, Messrs. Wong, Sabhlok and Shahbazian presented additional information regarding the Company and its business to potential lenders at the offices of TCB in Chicago, Illinois.

On August 24, 2006, TCB informed Morgan Stanley that, based on its due diligence review of the Company, TCB was not willing to proceed with the transaction at a price of $9.00 per share, but would be interested in proceeding at a reduced offering price of $8.50 per share. The board of directors met on August 23, 2006, with Messrs. Wong, Sabhlok and Shahbazian, and its financial advisor and legal counsel to consider the revised proposal. Mr. Wong and certain representatives of Morgan Stanley described the reasons offered by TCB for its reduction in price, recent inquiries from other potential buyers and the potential value of the Company s shares. Morgan Stanley then presented an updated preliminary financial analysis of the proposed transaction at $8.50 per share. Heller Ehrman also reviewed the status of the merger agreement and open issues yet to be

resolved by the parties. The board of directors then reviewed its various alternatives and instructed Morgan Stanley to advise TCB that its revised proposal was not acceptable and to pursue, upon expiration of the exclusivity period on August 25, 2006, other indications of interest that had surfaced during the exclusivity period.

Messrs. Wong and Bravo had several conversations during the next two days, and TCB agreed to increase its offer price to $8.55 per share. During the week of August 25, 2006, Heller Ehrman and Kirkland & Ellis continued to negotiate the terms of the merger agreement. On August 25, 2006, the board of directors met and conferred with Messrs. Wong, Sabhlok and Shahbazian, and the Company s financial advisor and legal counsel. Heller Ehrman reviewed the open issues on the merger agreement and entertained questions concerning various terms of the merger agreement and the board of directors fiduciary duties. After further deliberations, the board of directors decided to continue discussions based on TCB s revised offer of $8.55 per share, subject to TCB s agreement to accept certain changes in the merger agreement and related documents.

On August 30, 2006, TCB advised Morgan Stanley that TCB had completed its due diligence review, including final review of the Company s capitalization and other aspects of the Company s operations. TCB informed Morgan Stanley that TCB had previously not accounted for 275,000 shares of restricted common stock that had been awarded but not issued by the Company and proposed to reduce the offer price for the Company s common stock by an amount TCB had yet to determine. The board of directors of the Company was informed of this development at a meeting scheduled for later that day. At that meeting, the directors conferred with Messrs. Wong, Sabhlok and Shahbazian and its financial advisor and legal counsel regarding the status of the proposed transaction with TCB. Heller Ehrman reviewed the open issues on the latest draft of the merger agreement and the progress made to resolve those issues. The board was then informed that TCB had required that Messrs. Sabhlok, Lamvik and Williams enter new employment and non-competition agreements (to be effective upon completion of the merger) contemporaneously with the merger agreement, and that the terms of such agreements had been substantially agreed upon. The board was also informed that the new employment arrangements included equity incentive awards substantially similar to the employee s existing equity arrangements, except that Mr. Sabhlok would receive equity incentive awards in an aggregate amount equal to approximately 4.58% of the outstanding shares of EMBT Holdings, Inc. Further, the board was informed that Mr. Sabhlok would become President and Chief Executive Officer of the Company upon completion of the merger and that he intended to invest $300,000 of the proceeds he was to receive in the merger in capital stock of EMBT Holdings, Inc., representing approximately 0.33% of the equity capital of that company, on the same terms as the other Investors.

Between August 30, 2006 and September 1, 2006, Messrs. Wong, Sabhlok and Shahbazian of the Company, representatives of Morgan Stanley and Mr. Bravo of TCB held various telephone conversations regarding the status of the transaction and various open issues on the merger agreement, including the price for the Company s shares. Also on September 1, 2006, Mr. Wong authorized Morgan Stanley to contact other parties that had expressed an interest in pursuing a transaction with the Company.

On September 1, 2006, Morgan Stanley contacted an additional party (which had not been previously contacted) regarding a potential transaction with the Company.

On September 5, 2006, Mr. Bravo informed Mr. Wong that TCB was prepared to go forward with the proposed transaction at a price of $8.35 per share and proposed resolutions of the other open issues on the merger agreement. Based upon his discussion with the other Embarcadero directors, Mr. Wong informed Mr. Bravo that the Company s board of directors would not entertain any further offers from TCB unless they were presented in a signed agreement from TCB and its applicable affiliates. In addition, Mr. Wong asked Mr. Bravo to consider increasing TCB s proposal to $8.40 per share. Later that day, Mr. Bravo called Mr. Wong with what Mr. Bravo said was TCB s final proposal of $8.38 per share. Mr. Bravo also agreed to deliver a signed agreement to the Company containing TCB s proposal for consideration by the Company s board of directors. On September 6, 2006, TCB delivered a form of merger agreement and signature pages to the merger agreement and related documents to be held in escrow by the Company s counsel pending the board of directors approval of the transaction on the revised terms.

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The board of directors of the Company met with Messrs. Wong, Sabhlok and Shahbazian, and its financial advisors and legal counsel on September 6, 2006 and discussed the signed agreement submitted by TCB. Mr. Wong reported on the discussions that ensued over the Labor Day weekend and the terms of the revised offer. Morgan Stanley then updated the board of directors as to its financial analysis of the proposed transaction. Morgan Stanley also provided a status report on discussions with other potential buyers, indicating that none had submitted an acquisition proposal for consideration by management or the board of directors. Morgan Stanley then informed the board of directors that it was prepared to issue its fairness opinion on the revised offer. Heller Ehrman reviewed the material terms of the merger agreement, including the provisions enabling the board of directors to accept a superior proposal, if one should be presented after signing the merger agreement, and terminate the agreement upon the payment of a termination fee. Heller Ehrman also reviewed the board of directors fiduciary duties in the context of considering the proposed offer. Morgan Stanley then delivered its fairness opinion orally to the board of directors, which was confirmed subsequently in writing, that, as of September 6, 2006 and based upon and subject to the assumptions, qualifications and limitations to its opinion, the merger consideration of $8.38 per share to be received by holders of shares of Embarcadero common stock pursuant to the merger agreement is fair from a financial point of view. The board of directors then approved the merger agreement and related documents, and determined to recommend that our stockholders adopt the merger agreement, by a vote of five-to-one, with Mr. Frank M. Polestra voting against the matter, and authorized the chairman of the board to execute such documents on behalf of the Company.

The merger agreement and related documents were executed and delivered by the chairman of the board of directors on the evening of September 6, 2006, and the parties issued a joint press release on September 7, 2006.

Beginning shortly thereafter and continuing through September, the Company began preparing the preliminary proxy statement to be filed with the SEC in connection with the merger.

On October 2, 2006, the Federal Trade Commission, on behalf of itself and the Antitrust Division of the Department of Justice, informed the Company in writing that it had granted early termination of the waiting period under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, with respect to the merger.

On October 4, 2006, the Company filed the preliminary proxy statement with the SEC. On October 18, 2006, the board of directors called a special meeting of stockholders for November 30, 2006, at 12 p.m., local time, at the principal executive offices of the Company, to vote on the adoption of the merger agreement, and fixed the record date for the determination of stockholders entitled to notice of and to vote at such meeting at the close of business on October 18, 2006. The Company filed a definitive proxy statement with the SEC on October 24, 2006. The Company mailed the definitive proxy statement to stockholders of record on or about October 30, 2006.

Also during October 2006, in connection with the preparation of the Company s financial statements for the quarter ended September 30, 2006 and the associated Quarterly Report on Form 10-Q, the Company s independent registered public accounting firm, PricewaterhouseCoopers LLP, asked Company management to refine its testing and analysis of the Company s historical stock option grant practices, which testing and analysis had preliminarily begun at the request of the Audit Committee of the board of directors in July 2006. In early November 2006, Company management finished its testing and analysis, and reported the results to the Audit Committee and PricewaterhouseCoopers. After reviewing the results, PricewaterhouseCoopers suggested that two grants made in 2001 required further investigation by an independent third party.

On November 5, 2006, the Audit Committee engaged O Melveny & Myers LLP to assist it in reviewing these two option grants. Mr. Wong also held a series of conversations with representatives of TCB regarding the status of the stock option review and the engagement of O Melveny & Myers as special independent counsel to the Audit Committee.

On November 13, 2006, the Company submitted to the SEC a Notification of Late Filing pursuant to Rule 12b-25 of the Securities Exchange Act of 1934 in respect of its Quarterly Report on Form 10-Q for the quarter

ended September 30, 2006 (the ***Third Quarter 10-Q***). The Company reported that the filing had been delayed to enable the Audit Committee to evaluate the Company s accounting for certain stock option grants made in 2000 and 2001. The Company also announced that the Audit Committee had retained O Melveny & Myers.

On November 15, 2006, the Company received a Staff Determination Letter from the NASDAQ Stock Market (***NASDAQ***), stating that the Company was not in compliance with NASDAQ Marketplace Rule 4310(c)(14) because it had not filed the Third Quarter 10-Q in a timely manner. The Staff Determination Letter indicated that the Company s securities would be delisted from NASDAQ unless the Company timely requested a hearing before a NASDAQ Listing Qualifications Panel.

On November 17, 2006, the Company announced that, based on preliminary findings, the Audit Committee had decided to expand the scope of the previously-announced review of stock option grant practices. The Company also announced that although the Audit Committee s review was in its early stages, the Audit Committee believed that it was possible that the Company would need to restate its financial statements for certain historical reporting periods in order to record additional non-cash charges for stock-based compensation expense relating to the measurement dates of certain stock option grants. The Company further announced that it had voluntarily contacted the SEC to inform them about the ongoing review, and that the SEC had requested that the Company provide them with certain information relating to the Company s stock option practices.

In late November and early December 2006, Gary Haroian, chairman of the Audit Committee, and Morgan Stanley held a series of conversations with TCB regarding the status of the Audit Committee s review. Mr. Bravo of TCB indicated that TCB desired to receive a report directly from O Melveny & Myers regarding the review. Mr. Bravo further indicated that TCB was reserving all of its rights under the merger agreement and would evaluate the impact of the review on the merger after receipt of the report.

On November 30, 2006, the Company announced that the Audit Committee had discovered evidence of backdating of stock options from 2000 to 2005, but was unable to determine the impact of such practices on the Company s historical financial statements with any degree of certainty. The Company also announced that the Audit Committee had advised the Company that the Company might need to restate its historical financial statements for the periods commencing on or after January 1, 2000 through the present, including those in the Company s Annual Report on Form 10-K for the year ended December 31, 2005 and the Quarterly Reports on Form 10-Q for the first and second quarters of fiscal 2006.

The Company also announced on November 30, 2006 that although the Company had received proxies representing a sufficient number of votes to constitute a quorum and to adopt the proposed merger agreement at the special meeting of stockholders scheduled for later that day, the Company intended to convene and then promptly move to adjourn the meeting to December 18, 2006, without a vote on the merger. The Company stated that the reason for this adjournment was to allow time for the Audit Committee to proceed with its review and for the Company to discuss the results of the review with TCB and to disseminate any supplemental proxy materials that might be required prior to the vote on the merger.

At 12 p.m., local time, on November 30, 2006, the Company convened and then promptly moved to adjourn the special meeting of stockholders to December 18, 2006 without a vote on the merger. The meeting was so adjourned.

On December 5, 2006, Mr. Bravo and other representatives of TCB and Gerald Nowak of Kirkland & Ellis met with Mr. Haroian and Stephen Ferruolo of Heller Ehrman and, pursuant to a nondisclosure agreement, received a report from O Melveny & Myers on the status of the stock option review and the findings of the Audit Committee to date.

On December 8, 2006, the board of directors formed a Special Committee for the purpose of continuing the review of the Company s stock option grant practices commenced by the Audit Committee. Also on December 8, 2006, the board of directors asked Morgan Stanley to arrange a meeting between representatives of TCB and the Company for December 13, 2006 to discuss the status of the review and its potential impact on the merger.

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On December 9, 2006, Kirkland & Ellis approached Heller Ehrman regarding a request from TCB that the Company agree to extend the period of time provided in the merger agreement for notification by one party to the other party if such party believed that the other party had breached any representation, warranty, covenant or agreement contained in the merger agreement that could, individually or in the aggregate, result in the failure of a closing condition under the merger agreement to occur. On December 11, 2006, the board determined that it was in the best interests of the Company and its stockholders to extend the period for notification provided under the merger agreement solely as it related to the matters that were specifically the subject of the report on the status of the stock option review and the findings of the Audit Committee, and only until 5:00 p.m., Pacific time, on December 15, 2006.

On December 13, 2006, the board of directors held a meeting with representatives of Heller Ehrman and Richards, Layton & Finger, P.A., special Delaware counsel to the Company. The board and its legal advisors considered the options available to the Company under the merger agreement, and the possible scenarios that could occur, including without limitation, the possibility that the transaction might not close on or prior to December 31, 2006, in which case the merger agreement could be terminated by TCB and the Company would be obligated to pay Parent the termination fee of $8,100,000 in the event that the Company entered into a new acquisition agreement in the six months following such termination. The board and its legal advisors also discussed whether the Company could proceed with a stockholder vote on the proposed merger while the Special Committee s review was pending and given the likelihood that the Company s historical financial statements would need to be restated. After lengthy discussion of the many issues involved, the board of directors agreed that Morgan Stanley should be asked to approach TCB regarding a possible mutual termination of the merger agreement prior to December 31, 2006.

On December 14, 2006, TCB and Kirkland & Ellis had a telephonic meeting with PricewaterhouseCoopers and Heller Ehrman to discuss the status of the Special Committee s report.

During December 14 and December 15, 2006, Morgan Stanley and Messrs. Haroian and Ferruolo had a series of conversations with TCB and Mr. Nowak of Kirkland & Ellis regarding a mutual termination of the merger agreement. On December 16, 2006, TCB indicated its willingness to mutually terminate the merger agreement. Later that day, the Company entered into an agreement with Parent and Merger Sub to mutually terminate the merger agreement and whereby both the Company, on the one hand, and Parent and Merger Sub, on the other hand, agreed to release any and all claims they had against the other and further agreed that no termination fee would be paid or payable by either party. The Company announced the termination of the merger agreement on December 18, 2006, and indicated that due to the termination of the merger agreement, the special meeting of stockholders scheduled for later that day was cancelled and would not be reconvened.

Also on December 18, 2006, the Company announced that the Audit Committee had determined that the Company would need to restate its historical financial statements to record additional non-cash stock-based compensation expense related to past stock option grants having incorrect measurement dates due to backdating of stock options. The Company accordingly advised that its financial statements and related communications for the periods commencing on or after January 1, 2000 through the present, including those in the Company s Annual Report on Form 10-K for the year ended December 31, 2005 and the Quarterly Reports on Form 10-Q for the first and second quarters of fiscal 2006, should not be relied upon. The Company announced that it had concluded that the issues underlying the restatements represented material weaknesses with respect to the effectiveness of internal control over financial reporting, and that as such, Company management had concluded that the Company s internal control over financial reporting was not effective as of December 31, 2005 and the Company expected to receive an adverse report from its independent registered public accounting firm that the Company s internal control over financial reporting was not effective as of December 31, 2006.

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On January 11, 2007, the Company announced that Stephen Wong, the Company s Chairman, President and Chief Executive Officer, was retiring from the Company and resigning from the board of directors effective as of January 12, 2007. The Company also announced that it had commenced a search to fill the permanent position of Chief Executive Officer, and that the board of directors had formed a Management Oversight Committee consisting of Timothy Chou and Samuel Spadafora to assist the Company s management team on business and operational matters until a new Chief Executive Officer was appointed.

On or about January 15, 2007, representatives of TCB contacted Mr. Haroian to gauge the Company s interest in reopening discussions relating to the merger. The board of directors considered the matter at its regularly scheduled meeting on January 16, 2007 and decided that, while the Company should continue to evaluate all available options, the Company should focus its available resources on moving forward as an independent company, completing the Special Committee s review of stock option grant practices and the restatement of the Company s financial statements. The board of directors instructed TCB to direct any further communications through Kirkland & Ellis and Heller Ehrman. At the same time, the Company engaged an executive recruiter, initiated the search for a new Chief Executive Officer of the Company and began interviewing potential candidates.

On January 18, 2007, the Company appeared before a NASDAQ Listing Qualifications Panel (the ***Panel***) to discuss the potential delisting of the Company s securities from NASDAQ for failing to timely file the Third Quarter 10-Q, in violation of NASDAQ Marketplace Rule 4310(c)(14).

During the week of January 22, 2007, Kirkland & Ellis contacted Heller Ehrman and requested certain updated financial information about the Company and inquired about the status of the Special Committee s review. Heller Ehrman brought such requests to the attention of the board of directors, and the board determined to have Morgan Stanley provide appropriate updated financial information to TCB. Meanwhile, the Company s search for a Chief Executive Officer continued, with additional meetings and interviews with additional potential candidates.

During the week of February 5, 2007, following TCB s receipt and review of updated financial information relating to the Company, Mr. Bravo contacted Morgan Stanley and indicated, on a preliminary basis, that TCB was prepared to make an offer in the range of $7.25 per share in cash to acquire the Company. Mr. Bravo proposed that the transaction be structured as a tender offer with a 90% tender condition. Morgan Stanley brought these discussions to the attention of the board at a scheduled meeting held on February 7, 2007. Morgan Stanley presented the board with preliminary financial analysis of the potential offer and comparable valuation metrics. The board then conferred with Heller Ehrman about the proposed tender offer transaction structure and its fiduciary duties in the context of this potential offer. The board considered the potential offer relative to Morgan Stanley s comparable valuation metrics and financial analysis, the likelihood of 90% of the Company s stockholders tendering at the price being proposed, the impact that a tender offer would have on the Company, its business, strategy, employee morale and search for a new Chief Executive Officer, particularly if the tender were to be launched and the 90% tender condition was not achieved. The board also considered the developments at the Company that had occurred between September 2006 and that time and the impact of those developments on the valuation of the Company. After considering these and other factors, the board agreed that Morgan Stanley should be instructed to inform TCB that the board did not believe that a price in the range being proposed would be acceptable to the Company s stockholders and that the board would not recommend acceptance of such an offer to the stockholders. Morgan Stanley thereafter informed TCB of the board s determination.

On February 9, 2007, the NASDAQ Panel notified the Company that the Panel had determined to continue the listing of the Company s securities on NASDAQ, provided that the Company met certain requirements. Those requirements were that the Company (i) provide NASDAQ with specified information regarding the results of the Company s review of its stock option grant practices on or about March 1, 2007, (ii) file the Third Quarter 10-Q, any other delinquent periodic reports, and any required restatements on or before April 18, 2007 and (iii) comply with all other requirements for continued listing on NASDAQ.

On February 12, 2007, Mr. Bravo sent a letter to the board of directors indicating that TCB had been notified of the board s concerns and determinations regarding the potential tender offer and that TCB was now prepared to offer $7.50 per share in cash to acquire the Company. The letter proposed that the transaction be structured as a one-step merger transaction rather than as a tender offer, in light of the board s stated concerns regarding the likelihood of a 90% tender condition being achieved. The letter was accompanied by a draft merger agreement based substantially on the previous merger agreement executed in September 2006, but reflecting the revised terms, including price.

On February 12, 2007, the board met and considered the offer proposed in Mr. Bravo s letter. The board again conferred with Morgan Stanley and Heller Ehrman regarding the revised terms and the revised transaction structure. The board considered a number of factors in the context of the revised offer, including the financial analysis and comparable valuation metrics presented by Morgan Stanley, the impact that a merger would have on the Company, its business and its strategic direction and the likelihood that the stockholders would approve a price of $7.50 per share. The board again considered and discussed the impact of the developments since September 2006 on the valuation of the Company. At this meeting, Morgan Stanley also informed the board that another potential buyer had contacted Morgan Stanley and indicated its interest in beginning preliminary discussions and due diligence regarding a potential offer to acquire the Company. The board questioned Morgan Stanley regarding the new potential buyer s level of interest, its ability to consummate a transaction and how long it would take the new potential buyer to complete its due diligence and present an offer. After discussion of TCB s revised offer and contacts with the new potential buyer, and after conferring with both Morgan Stanley and Heller Ehrman on a number of issues, the board instructed Morgan Stanley to inform TCB that its revised offer of $7.50 per share was not acceptable. The board also instructed Morgan Stanley to take appropriate steps to begin discussions with the new potential buyer, including negotiating an acceptable confidentiality agreement and arranging for due diligence meetings between the new potential buyer and Company management. The board also agreed to actively continue the search for a new Chief Executive Officer of the Company, and scheduled further meetings with the leading candidates.

On February 16, 2007, the Company announced that a stockholder derivative lawsuit related to the Company s stock option grant practices had been filed in the U.S. District Court for the Northern District of California on February 9, 2007. On February 26, 2007, a second stockholder derivative lawsuit related to the Company s stock option grant practices was filed in the Superior Court of the State of California, County of San Francisco.

On February 23, 2007, Mr. Spadafora and Mr. Shahbazian, along with Erik Marth of Morgan Stanley and Stephen Ferruolo of Heller Ehrman, met in San Francisco with Orlando Bravo, Gerald Nowak of Kirkland & Ellis and other representatives of TCB. Mr. Roberts participated in the meeting by teleconference. The parties discussed developments at the Company, including the status of the Special Committee s review of stock option grant practices and the restatement, the Company s search for a Chief Executive Officer and TCB s continuing due diligence and the terms, structure and timing of a possible transaction. At that meeting, the parties agreed that Kirkland & Ellis and Heller Ehrman should further discuss the structure and timing of a transaction.

At a scheduled meeting of the board held on February 27, 2007, Company management reported on due diligence meetings held with the new potential buyer since the last meeting of the board. The board then conferred with Morgan Stanley and Heller Ehrman regarding appropriate next steps in the due diligence process with the new potential buyer, and the board agreed to continue to move forward in the process. The board also discussed a new written offer from Mr. Bravo that had been received earlier that day indicating that TCB was now prepared to offer $7.85 per share in cash to acquire the Company, provided that Stephen Wong agree to certain conditions relating to liabilities arising from the review of the Company s historical stock option grant practices. The board again evaluated a number of factors in the context of this revised offer, including the updated financial analysis of Morgan Stanley, the Company s business and strategic direction, the search for a new Chief Executive Officer, and whether the stockholders, including in particular Mr. Wong, would approve the revised offer. The board concluded that it was in the best interests of all of the stockholders that the board further

consider TCB s revised offer and that Mr. Wong be approached to determine whether the terms of the revised offer were acceptable to him.

On or about February 28, 2007, Morgan Stanley contacted Mr. Wong and reported on TCB s revised offer to acquire the Company. Mr. Wong indicated that the terms of the revised offer were not acceptable to him. Mr. Wong s response was then relayed to representatives of TCB.

On March 1, 2007, the Company provided NASDAQ with information regarding the results of the Company s review of its stock option grant practices.

On March 2, 2007, TCB contacted Morgan Stanley and indicated that it was considering making a new proposal to acquire the Company either for $7.65 per share or $7.78 per share with certain conditions relating to liabilities arising from the review of the Company s historical stock option grant practices and the related restatements. Morgan Stanley reported to the board regarding this proposal, and the board discussed the matter at a meeting held on March 5, 2007. The board requested that Heller Ehrman talk with Kirkland & Ellis to clarify the terms of TCB s proposal and consult with special Delaware counsel and the SEC regarding various legal and regulatory issues involved with filing a proxy statement to approve a merger given the status of the Special Committee s review and the restatement.

On March 5, 2007, the Special Committee reported to the Board of Directors regarding the findings of its review, which had been substantially completed. In its report, the Special Committee recommended, among other things, that Raj Sabhlok, the Company s Senior Vice President of Operations, either resign or be terminated. On March 9, 2007, O Melveny & Myers met with the SEC to discuss the Special Committee s review and matters relating thereto.

At a board meeting on March 12, 2007, management reported to the board on further due diligence meetings conducted with TCB. The board also conferred with Morgan Stanley, who indicated that TCB was likely to revise the terms of their potential proposal as a result of their continuing due diligence. The board discussed with Morgan Stanley the likely timing for receipt of a new offer from TCB. The board also discussed the continued search for a new Chief Executive Officer and interviews relating thereto, and began consideration of potential compensation packages in the event a particular candidate was selected.

On March 14, 2007, Mr. Bravo, Mr. Nowak of Kirkland & Ellis, and other representatives of TCB and its advisors met with O Melveny & Myers and Heller Ehrman, pursuant to the existing nondisclosure agreement, to review the Special Committee s report regarding the findings of its review of the Company s stock option grant practices. Later that day, Kirkland & Ellis met with Heller Ehrman, the Company s litigation counsel, to discuss the stockholder derivative lawsuits filed relating to the Company s stock option grant practices.

On March 16, 2007, the Company submitted to the Securities and Exchange Commission a Notification of Late Filing pursuant to Rule 12b-25 of the Securities Exchange Act of 1934 in respect of its Annual Report on Form 10-K for the year ended December 31, 2006 (the ***2006 Form 10-K***). The Company reported that the filing had been delayed to enable the Special Committee of the board of directors to complete its review of the Company s historical stock option grant practices.

At a meeting of the board held on March 19, 2007, Morgan Stanley reported that TCB had indicated that it would likely be submitting a revised offer to acquire the Company for $7.55 per share, once TCB had completed final due diligence meetings scheduled for later that week. The board again discussed with Morgan Stanley the status of discussions with the new potential buyer discussed at the board meeting on February 12, 2007, and whether any other potential buyers had indicated interest in beginning discussions. Morgan Stanley reported that the new potential buyer was still at the very initial stages in the process and that no other parties had expressed

serious interest in beginning discussions about potential offers to acquire the Company. The board instructed Morgan Stanley to communicate to TCB that any revised offer should be accompanied by a form of merger agreement that TCB would be prepared to sign and included a reduced breakup fee and a revised definition of material adverse effect that excluded any adverse events or consequences from the Special Committee s review or the restatement. Also on March 19, 2007, in an unrelated matter, Mr. Ferruolo moved from Heller Ehrman to Goodwin Procter LLP, and the Company engaged Goodwin Procter as its legal counsel in connection with the transaction.

On March 21, 2007, the Company received an additional Staff Determination Letter from the NASDAQ, stating that the Company was not in compliance with NASDAQ Marketplace Rule 4310(c)(14) because it had not filed the 2006 Form 10-K in a timely manner. The additional Staff Determination Letter indicated that the Company was required to present its views with respect to this additional deficiency to the Panel in writing no later than March 28, 2007.

On March 23, 2007, the board held a meeting and received an update from Morgan Stanley on discussions that had taken place earlier that week with TCB. Morgan Stanley reported that TCB had conducted its final due diligence meetings and had indicated that it would submit an offer to acquire the Company at $7.55 per share. Morgan Stanley also reported to the board on the transaction terms and conditions that Morgan Stanley expected TCB to include in its draft merger agreement. The board again questioned Morgan Stanley regarding the status of the new potential buyer, and Morgan Stanley reported that the new potential buyer had signed the Company s form of confidentiality agreement earlier in the week but had not followed up or scheduled any due diligence meetings with the Company. Morgan Stanley then presented the board with updated financial analysis of the anticipated offer of $7.55 per share and comparable valuation metrics at that price. The board also conferred with Goodwin Procter regarding the expected terms of the merger agreement and legal analysis relating thereto.

On March 24, 2007, Kirkland & Ellis sent a revised draft of the merger agreement to Morgan Stanley and Goodwin Procter, which reflected, among other things, an offer to acquire the Company for $7.55 per share in cash.

On March 25, 2007, the board held a meeting and received reports from Morgan Stanley and Goodwin Procter on TCB s revised offer and the terms of the draft merger agreement that had been received. Morgan Stanley again presented its financial analysis in the context of the offer of $7.55 per share, and the board discussed this analysis and a number of other factors relating to the valuation of the Company. The board also discussed the remaining open issues in the draft merger agreement, including, among others, the size of the breakup fees, the solvency opinion, the closing conditions and the definition of material adverse effect . The board agreed that Samuel Spadafora should communicate the board s position on the open issues to TCB in an effort to resolve those issues. The board also agreed that Mr. Spadafora should communicate to TCB that the board expected the terms of TCB s offer and the open issues to be finally resolved by March 27, which was the date of the next scheduled meeting of the board. Immediately following this meeting, Mr. Spadafora contacted TCB and reported the board s views.

On March 27, 2007, the board met to consider the revised offer and merger agreement from TCB. Mr. Spadafora reported that he believed that the open issues in the merger agreement had been resolved with TCB, including, among others, the size of the breakup fees, the solvency opinion, the closing conditions and the definition of material adverse effect . Mr. Spadafora also indicated that, while TCB was willing to agree to the Company s resolution of the open issues in the merger agreement, TCB had communicated that it was not willing to offer any price above $7.55 per share. Mr. Spadafora also informed the board that TCB required that the Company enter into an employment agreement with Raj Sabhlok to be effective upon the closing of the merger and that Mr. Sabhlok also be retained by the Company in his current position until closing. Morgan Stanley then updated the board as to its financial analysis of the proposed offer and the status of discussions with the new potential buyer, which had not progressed. Morgan Stanley then informed the board of directors that it was prepared to issue its fairness opinion on the revised offer of $7.55 per share. Goodwin Procter then described for the board the material terms and conditions of the merger agreement, including the provisions enabling the board

of directors to accept a superior proposal, if one should be presented after signing the merger agreement, and terminate the agreement upon the payment of a termination fee, which had been reduced to $5,000,000. Goodwin Procter again advised the board of its fiduciary duties in the context of considering the proposed offer. Morgan Stanley then delivered its fairness opinion orally to the board of directors, that was to be confirmed subsequently in writing, that, as of March 27, 2007 and based upon and subject to the assumptions, qualifications and limitations to its opinion, the merger consideration of $7.55 per share to be received by holders of shares of Embarcadero common stock pursuant to the merger agreement was fair from a financial point of view. The board of directors then approved the merger agreement and related documents, subject to any changes or additions thereto as approved by Michael Roberts, lead director, and determined to recommend that the Company s stockholders adopt the merger agreement, by a vote of four-to-one, with Frank M. Polestra voting against the matter. The board authorized Michael Shahbazian, the Company s Chief Financial Officer, and Timothy Chou and Samuel Spadafora, members of the Management Oversight Committee, to execute and deliver documents on behalf of the Company.

During the course of the day on March 28, 2007, Kirkland & Ellis and Goodwin Procter had a series of conversations regarding final revisions to the merger agreement and the related ancillary documents. Also discussed were severance obligations that would be payable to certain officers of the Company and certain matters relating to the agreements to be entered into with Stephen Wong. Through the course of the evening on March 28, Kirkland & Ellis and Goodwin Procter worked to finalize all of the outstanding documentation, although a few issues remained unresolved, including particularly matters relating to the agreements to be entered into with Stephen Wong. Also on March 28, 2007, the Company responded to the NASDAQ Panel in writing regarding the additional deficiency resulting from its failure to timely file the 2006 Form 10-K.

During the course of the morning on March 29, 2007, Kirkland & Ellis and Goodwin Procter continued to work to finalize the merger agreement and related documentation, and they had a series of conversations with Stephen Wong s legal counsel. As the Company s first quarter was now drawing to a close, it had also come to the attention of Company management that the projected revenues for the first quarter of fiscal 2007 were likely to be significantly lower than previously expected. Company management informed the board of directors of this development. The board of directors then instructed Company management to report these developments to representatives of TCB. The board also determined that another meeting of the board of directors was necessary so that, among other things, management could report to the board on the first quarter developments and the board could evaluate their impact on the proposed transaction.

During the afternoon of March 29, 2007, Raj Sabhlok, the Company s Senior Vice President of Operations went to the San Francisco offices of TCB to discuss the first quarter developments with TCB in person. Samuel Spadafora, as a member of the Management Oversight Committee, participated in the meeting with TCB via telephone. Messrs. Sabhlok and Spadafora presented a report to TCB on the likely revenue numbers for the first quarter, the status of certain larger transactions that had been expected to close and had not, and reviewed the sales pipeline for the rest of the first quarter and into the second quarter of fiscal 2007. At the end of this meeting, Mr. Bravo indicated to Messrs. Sabhlok and Spadafora that TCB would need to consider these developments and their impact on the proposed merger.

Later that evening, the board held a meeting to review with Company management the first quarter revenues. Messrs. Sabhlok and Spadafora repeated for the entire board the report that had been presented to TCB. The board asked questions of Company management regarding the first quarter results and reviewed in detail with Company management the status of particular customer contracts and the projected sales pipeline. The board also discussed with management the extent to which the results were affected by the Special Committee s review, the recent departure of key personnel, the merger negotiations and other extraordinary events, or whether the results reflected longer-term trends. The board also reviewed with management the prospects for the second quarter and the remainder of 2007. The board then met in executive session and consulted with Morgan Stanley about the likely impact of the first quarter results on the valuation of the Company and the proposed transaction. The board also discussed the status of discussions with the leading candidate to fill the position of Chief Executive Officer of the Company.

On April 2, 2007, the board held a meeting to discuss the status of the transaction and discussions with the leading candidate for Chief Executive Officer of the Company. Goodwin Procter reported to the board that TCB and their counsel had not communicated their position on the first quarter developments and their impact on the transaction remained uncertain. The board then discussed the steps necessary to move forward with the candidate for Chief Executive Officer of the Company. Following this discussion, the CEO candidate was invited to join the meeting and he presented his views on the state of the business, its outlook, the industry generally, and what steps he would recommend if the board determined to remain an independent company. The board then met in executive session to discuss the candidate and the strategy of remaining an independent company.

Late in the day on April 3, 2007, Kirkland & Ellis sent via email to Morgan Stanley and Goodwin Procter a revised merger agreement and revised ancillary documents that reflected an offer to acquire the Company for $7.20 per share. The revised documents were accompanied by signature pages that had been executed by TCB, to be held in escrow by the Company s counsel pending the board of directors approval of the transaction on the revised terms. The message indicated that the offer proposed was conditioned on acceptance of all of the documents as revised, and that the offer was the final and best offer of TCB. The message further indicated that the offer would remain open for acceptance until 11:59 p.m., Pacific time, on April 4, 2007, at which time, if not accepted, the offer would be automatically withdrawn.

The board of directors then convened a meeting on April 4, 2007 to evaluate the proposed offer. Goodwin Procter again summarized for the board the material terms and conditions of the merger agreement and the ancillary documents, including the price of $7.20 per share. The board discussed a number of issues and factors relating to the proposed transaction, including matters relating to the agreements to be executed by Stephen Wong. It was noted that Stephen Wong and TCB had not come to final agreement on the terms of his Voting Agreement. The board of directors then agreed that it would be in the best interests of the Company and its stockholders, and for the certainty of completing the transaction, if and when agreed to by the board of directors, that these matters with Stephen Wong be resolved and that Stephen Wong agree to deliver a Voting Agreement. The board accordingly deferred action on TCB s offer pending resolution of those issues. In an unrelated matter, the board of directors also learned during this meeting that the Company had been notified earlier in the day that a third stockholder derivative lawsuit had been filed against the Company, its directors and certain current and former executive officers in connection with the Company s historical stock option grant practices. The board instructed Goodwin Procter to inform TCB and Kirkland & Ellis of the filing of this suit.

Immediately following this meeting, Goodwin Procter informed Kirkland & Ellis of the existence of the third stockholder derivative lawsuit and provided Kirkland & Ellis with a copy of the filed complaint. Kirkland & Ellis then notified Goodwin Procter that TCB s offer was temporarily withdrawn, pending their review of the filed complaint. Goodwin Procter then notified the board of directors of this development. Mr. Roberts also communicated to Stephen Wong that the board of directors would not consider approving the transaction in the absence of a Voting Agreement from Mr. Wong.

On the morning of April 5, 2007, Stephen Wong and his attorneys indicated that Mr. Wong would sign a Voting Agreement in the form proposed by TCB. Kirkland & Ellis also sent via email to Morgan Stanley and Goodwin Procter copies of the merger agreement and ancillary documents that were substantially identical to the versions sent on April 3, 2007 and continued to reflect an offer to acquire the Company for $7.20 per share in cash. The message included signature pages executed by TCB, to be held in escrow by the Company s counsel pending the board of directors approval of the transaction on the proposed terms, and indicated that the prior offer was re-proposed and would remain open for acceptance until 5:00 p.m., Pacific time that day.

The board of directors then convened a meeting on the afternoon of April 5, 2007 to consider TCB s offer. Goodwin Procter again summarized for the board of directors the material terms and conditions of the merger agreement and the ancillary documents, which remained substantially unchanged. It was also reported that Mr. Wong had agreed to sign a Voting Agreement in the form proposed by TCB. Morgan Stanley then informed the board of directors that it had revised its financial analysis of the offer, taking into account the lower first

quarter revenues and the prospects for the second quarter and the remainder of 2007. The board considered and discussed Morgan Stanley s revised financial analysis and the concerns regarding the potential for lower revenues for the balance of fiscal 2007 in light of lower recent license revenue results and projections relating thereto. Morgan Stanley then indicated to the board of directors that it was prepared to issue its fairness opinion on the revised offer. Goodwin Procter then reviewed the board of directors fiduciary duties in the context of considering the proposed offer. Goodwin Procter also summarized the provisions in the merger agreement, including those enabling the board of directors to accept a superior proposal, if one should be presented after signing the merger agreement, and the reduced termination fee in connection therewith. Morgan Stanley then delivered its fairness opinion orally to the board of directors, which was confirmed subsequently in writing, that, as of April 5, 2007, and based upon and subject to the assumptions, qualifications and limitations to its opinion, the merger consideration of $7.20 per share to be received by holders of shares of Embarcadero common stock pursuant to the merger agreement is fair from a financial point of view. The board of directors then approved the merger agreement and related documents, and determined to recommend that our stockholders adopt the merger agreement, by a vote of four-to-one, with Frank M. Polestra voting against the matter. The board authorized Michael Shahbazian, the Company s Chief Financial Officer, and Timothy Chou and Samuel Spadafora, members of the Management Oversight Committee, to execute and deliver documents on behalf of the Company.

The merger agreement and related documents were executed and delivered on behalf of the Company by Michael Shahabazian on the evening of April 5, 2007, and the parties issued a joint press release on April 6, 2007.

Recommendation of the Board of Directors

Our board of directors has approved the merger agreement and related documents, and determined that the merger, on the terms and conditions set forth in the merger agreement, is fair to, advisable and in the best interests of the Company and its stockholders. As described below under Other Agreements Voting Agreements, each of Messrs. Wong, Sabhlok, Shahbazian, Williams and Schoonover has agreed to vote all shares of Embarcadero common stock that he currently holds and subsequently acquires in favor of the adoption of the merger agreement. Our board of directors considered a number of factors, as more fully described above under The Merger Background of the Merger and below under The Merger Reasons for the Board s Recommendation, in determining to recommend that the stockholders adopt the merger agreement. **Our board of directors recommends that you vote FOR the adoption of the merger agreement.**

Reasons for the Board s Recommendation

In reaching its conclusion regarding the fairness of the merger to the stockholders and its decision to approve the merger agreement and recommend its adoption by our stockholders, our board of directors considered the following factors, each of which the board believes supported its conclusion but which are not listed in any relative order of importance:

- the board s belief that we face several challenges in our efforts to increase stockholder value as an independent publicly-traded company, including competition from companies with substantially greater scale, declining valuation multiples in our market sector and that our long-term efforts to address these and other concerns are made more difficult by the short-term focus of the public equity markets on quarterly financial results;

- concerns regarding the potential for lower revenues for fiscal 2007 in light of lower recent license revenue results and projections;

- projections of the Company s future financial performance prepared by management, together with management s analysis of the Company s financial condition, results of operations and business prospects;

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the board s knowledge of our business, financial condition, results of operations and prospects including our recent financial performance, and the board s belief that the merger is more favorable to our stockholders than any other alternative reasonably available to the Company and our stockholders, including remaining as a standalone public company;

the consideration to be received by our stockholders in the merger and a comparison of similar merger transactions;

the belief that the terms of the merger agreement, including the parties representations, warranties and covenants, and the conditions to their respective obligations, are reasonable and were the product of extensive negotiations between the board and its advisors and TCB and its advisors;

financial analyses and pro forma and other information with respect to Embarcadero presented by Morgan Stanley to the board as discussed below under Opinion of Morgan Stanley & Co. Incorporated, including Morgan Stanley s fairness opinion that, as of April 5, 2007 and based upon and subject to the assumptions, qualifications and limitations set forth in its opinion, the merger consideration of $7.20 per share to be received by holders of shares of Embarcadero common stock pursuant to the merger agreement is fair from a financial point of view;

the commitments for debt financing contained in the debt commitment letter and for equity financing by TCB and the Investors contained in the equity commitment letter described below under The Merger Financing of the Merger, which the board believes reduce the risk that the merger will not be completed;

the fact that the merger consideration is all cash, so that the transaction allows our stockholders to realize immediately a fair value, in cash, for their investment and provides such stockholders certainty of value for their shares of Embarcadero common stock;

the fact that the $7.20 per share price to be paid pursuant to the merger represented a 9.08% premium to the average closing price of our common stock over the 30 trading day period prior to and including the date of the board s approval of the merger and a 15% premium to the average closing price of our common stock over the 30 trading day period prior to and including March 6, 2007, which was the day before Chapman Capital made its initial disclosure of its investment in Embarcadero and Chapman Capital s desire for Embarcadero to be sold;

the breadth of the Company s solicitation for indications of interest and the fact that no other proposals were received by the Company;

the fact that, subject to compliance with the terms and conditions of the merger agreement, we are permitted to terminate the merger agreement prior to the completion of the merger in order to approve any alternative transaction proposed by a third party that is a superior proposal, as defined in the merger agreement, upon the prior or concurrent payment to Parent of a $5,000,000 termination fee;

the fact that Thoma Cressey Fund VIII, L.P. has agreed to guarantee the performance by Parent and EMBT Merger Corp. of their obligations under the merger agreement, up to a maximum amount of $5,000,000;

the fact that, pursuant to the terms of their voting agreements, Messrs. Wong, Sabhlok, Shahbazian, Williams and Schoonover have agreed to vote all shares of Embarcadero common stock that they currently hold or subsequently acquire in favor of the adoption of the merger agreement and the related transactions and any matter required to effect those transactions;

- the fact that, under the General Corporation Law of the State of Delaware, the affirmative vote of a majority of the outstanding shares of Embarcadero common stock as of the close of business on the record date of May 1, 2007 is required to adopt the merger agreement; and

- the availability of appraisal rights to holders of our common stock who comply with all of the required procedures under Delaware law.

The board also considered a variety of potentially negative factors concerning the merger agreement and the merger, including the following factors which are not listed in any relative order of importance:

- the possibility that the merger might not be completed and the potential negative effect of public announcement of the merger on our sales and operating results and our ability to attract and retain key management, marketing and technical personnel if the merger is not completed;

the fact that an all cash transaction would be taxable to our stockholders for U.S. federal income tax purposes;

the fact that our stockholders would not participate in any future earnings or growth of Embarcadero and will not benefit from any appreciation in value of Embarcadero;

the fact that certain of our directors and officers may have interests in the merger that are different from, or in addition to, the interests of our stockholders in general;

the restrictions under the merger agreement on the conduct of our business prior to the completion of the merger; and

the fact that we are entering into a merger agreement with two newly formed corporations with essentially no assets and, accordingly, that any remedy in connection with a breach of the merger agreement by Parent or EMBT Merger Corp. may be limited to the amount guaranteed by Thoma Cressey Fund VIII, L.P.

The foregoing discussion of the information and factors considered by the board is not intended to be exhaustive, but includes a number of the factors considered by the board. In view of the wide variety of factors considered by the board, the board did not find it practicable to, and did not, quantify or otherwise assign relative weights to the foregoing factors in reaching its conclusion. In addition, individual members of the board gave different weight to different factors and viewed some factors more positively or negatively than others. By a vote of four-to-one, with Frank M. Polestra voting against the matter, the board approved the merger agreement and related documents and determined to recommend that our stockholders adopt the merger agreement based upon the totality of the information presented to and considered by it.

Opinion of Morgan Stanley & Co. Incorporated

Embarcadero retained Morgan Stanley to provide it with financial advisory services and a financial opinion in connection with a possible merger, sale or other business combination. Embarcadero s board of directors selected Morgan Stanley to act as its financial advisor based on Morgan Stanley s qualifications, expertise and reputation and its knowledge of the business and affairs of Embarcadero. At the meeting of the Embarcadero board of directors on April 5, 2007, Morgan Stanley rendered its oral opinion, subsequently confirmed in writing, that, as of April 5, 2007, and based upon and subject to the assumptions, qualifications and limitations set forth in the opinion, the consideration to be received by holders of shares of Embarcadero common stock pursuant to the merger agreement was fair from a financial point of view to such holders other than one or more officers of Embarcadero who are investing a portion of their proceeds from the merger in shares of capital stock of EMBT Holdings, Inc.

The full text of the written opinion of Morgan Stanley, dated as of April 5, 2007, is attached to this proxy statement as Annex B. The opinion sets forth, among other things, the assumptions made, procedures followed, matters considered and limitations on the scope of the review undertaken by Morgan Stanley in rendering its opinion. We encourage you to read the entire opinion carefully. Morgan Stanley s opinion is directed to Embarcadero s board of directors and addresses only the fairness from a financial point of view of the consideration to be received by holders of shares of Embarcadero common stock pursuant to the merger agreement as of the date of the opinion. It does not address any other aspects of the merger and does not constitute a recommendation to any holder of Embarcadero common stock as to how to vote on the merger agreement at the special meeting of stockholders. The summary of the opinion of Morgan Stanley set forth in this proxy statement is qualified in its entirety by reference to the full text of the opinion.

In connection with rendering its opinion, Morgan Stanley, among other things:

reviewed certain publicly available financial statements and other business and financial information of Embarcadero;

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- reviewed certain internal financial statements and other financial and operating data concerning Embarcadero prepared by the management of Embarcadero;

- reviewed certain financial projections of Embarcadero prepared by the management of Embarcadero;

- discussed the past and current operations and financial condition and the prospects of Embarcadero with senior executives of Embarcadero;

- reviewed the reported prices and trading activity for Embarcadero common stock and other publicly available information regarding Embarcadero;

- compared the financial performance of Embarcadero and the prices and trading activity of Embarcadero common stock with those of certain other comparable publicly-traded companies and their securities;

- reviewed the financial terms, to the extent publicly available, of certain comparable acquisition transactions;

- participated in discussions and negotiations among representatives of Embarcadero, the Parent and their respective financial and legal advisors;

- reviewed the merger agreement and certain related documents; and

- performed such other analyses and considered such other factors as it deemed appropriate.

In arriving at its opinion, Morgan Stanley assumed and relied upon, without independent verification, the accuracy and completeness of the information supplied or otherwise made available to Morgan Stanley by Embarcadero for the purposes of its opinion. With respect to the financial projections, Morgan Stanley assumed that they had been reasonably prepared on bases reflecting the best available estimates and judgments of the future financial performance of Embarcadero. Although Morgan Stanley understood that the financial statements of Embarcadero would be restated, for the purposes of this opinion Morgan Stanley reviewed and relied upon, without independent verification, the existing financial statements of Embarcadero available as of April 5, 2007. Morgan Stanley also assumed that the merger would be completed in accordance with the terms set forth in the merger agreement without any waiver, amendment or delay of any terms or conditions including, among other things, that the Parent would obtain financing for the merger. Morgan Stanley relied upon, without independent verification, the assessment by the management of Embarcadero of the validity of, and risks associated with, Embarcadero s existing and future technologies, intellectual property, products and services, and the strategic rationale for the merger. Morgan Stanley assumed that in connection with the receipt of all the necessary governmental, regulatory or other approvals and consents required for the merger, no delays, limitations, conditions or restrictions would be imposed that would have a material adverse effect on the contemplated benefits expected to be derived in the merger. Morgan Stanley is not a legal, tax or regulatory advisor and relied upon, without independent verification, the assessment of Embarcadero and its legal, tax or regulatory advisors with respect to such matters. Morgan Stanley did not make any independent valuation or appraisal of the assets or liabilities of Embarcadero nor was Morgan Stanley furnished with any such appraisals. Morgan Stanley s opinion was necessarily based on financial, economic, market and other conditions as in effect on, and the information made available to Morgan Stanley as of April 5, 2007. Events occurring after April 5, 2007 may affect Morgan Stanley s opinion and the assumptions used in preparing it, and Morgan Stanley has not assumed any obligation to update, revise or reaffirm its opinion.

The following is a brief summary of the material analyses performed by Morgan Stanley in connection with its oral opinion and the preparation of its written opinion letter, dated April 5, 2007. The various analyses summarized below were based on the closing price for the common stock of Embarcadero on April 5, 2007, the day of the meeting of Embarcadero s board of directors to consider and approve the merger agreement. Some of these summaries of financial analyses include information presented in tabular format. In order to understand fully the financial analyses used by Morgan Stanley, the tables must be read together with the text of each summary. The tables alone do not constitute a complete description of the financial analyses.

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Trading Range Analysis. Morgan Stanley performed a trading range analysis to provide background and perspective with respect to the historical share prices of Embarcadero common stock. Morgan Stanley reviewed the range of closing prices of Embarcadero common stock for various periods ending on April 5, 2007. Morgan Stanley noted that the closing price of Embarcadero s common stock on April 5, 2007, the day Embarcadero s board of directors voted to approve the transaction, was $6.88. Morgan Stanley also observed that on March 7, 2007, Chapman Capital made its initial disclosure of its investment in Embarcadero and Chapman Capital s desire for Embarcadero to be sold. Morgan Stanley observed that, on March 7, 2007, Embarcadero s share price increased 5% to $6.57. Morgan Stanley noted that the unaffected price as of March 6, 2007, prior to the Chapman Capital disclosure, was $6.28.

Morgan Stanley also observed that the twelve month trading period for Embarcadero s common stock for up to and including April 5, 2007 included a period from September 7, 2006 to December 16, 2006 in which Embarcadero and TCB were parties to a merger agreement whereby Embarcadero would be acquired for $8.38 per share of common stock. Morgan Stanley noted that the trading range for Embarcadero s common stock for the twelve month period up to and including April 5, 2007, but excluding the period in which Embarcadero and TCB were parties to a merger agreement whereby Embarcadero would be acquired for $8.38 per share of common stock was $5.40 to $7.60.

The following data summarizes the historical trading range of Embarcadero s common stock, including the actual historical prices and ranges and the price and ranges adjusted to exclude trading prices and ranges incorporating (i) the period subsequent to March 7, 2007 and (ii) the period from April 5, 2006 to March 6, 2007 (***Unaffected Prices***):

Morgan Stanley observed the following:

	Range of Closing Prices	
Period Ending April 5, 2007	**Unaffected Prices**	**Actual**
Last 30 Trading Days	$ 6.02 $6.28	$ 6.02 $7.02
Since December 16, 2006	$ 5.80 $6.38	$ 5.80 $7.02
Last 12 Months	$ 5.40 $7.60	$ 5.40 $8.33

Morgan Stanley noted that the consideration per share of $7.20 pursuant to the merger agreement reflected a 15% premium to Embarcadero s closing price on March 6, 2007 and a 15% premium to the average closing price per share of Embarcadero common stock for the 30 trading days prior to and including March 6, 2007. In addition, Morgan Stanley noted that the aggregate value of Embarcadero, defined as market capitalization plus total debt less cash and cash equivalents, based on the consideration per share of $7.20, represented a 26% premium to Embarcadero s aggregate value as of March 6, 2007.

Historical Financial Performance. Morgan Stanley reviewed certain historical annual and quarterly financial results for Embarcadero, excluding certain non-cash expenses and nonrecurring items. Morgan Stanley observed the following:

Financial Statistic	**Revenues ($ in millions)**	**Operating Income ($ in millions)**	**Earnings Per Share ($)**
CY 2005	$ 57.6	$ 8.7	$ 0.25
CY 2006	$ 60.0	$ 11.8	$ 0.34
Q1 2007	$ 13.3	$ 1.8	$ 0.06

Morgan Stanley observed that this data excluded expenses related to the investigation of Embarcadero s stock option granting practices and associated restatement of Embarcadero s financial results. Including estimates of these expenses, Morgan Stanley noted that Embarcadero s earnings per share for calendar year 2006 and the first quarter of calendar year 2007 were $0.31 and $0.00, respectively.

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Morgan Stanley also observed Embarcadero s historical quarterly license revenues for the last nine quarters up to and including the quarter ended March 31, 2007. A summary of this data is as follows:

License Revenue Statistic

Calendar Year	($ in millions)
Q1 2005	$ 6.1
Q2 2005	$ 6.5
Q3 2005	$ 7.1
Q4 2005	$ 7.8
Q1 2006	$ 6.6
Q2 2006	$ 6.7
Q3 2006	$ 6.4
Q4 2006	$ 6.9
Q1 2007	$ 4.8

Morgan Stanley noted that Embarcadero s license revenue for the quarter ended March 31, 2007 represented a decline of 31% from the license revenue for the quarter ended December 31, 2006 and a 28% decline from the license revenue for the quarter ended March 31, 2006. Morgan Stanley also noted that the license revenue for the quarter ended March 31, 2007 was the lowest of the nine historical quarters reviewed.

Morgan Stanley further noted that Embarcadero s EBITDA, defined as earnings before interest, taxes, depreciation and amortization (excluding certain non-cash expenses and nonrecurring items), was $13.4 million for the twelve month period ended March 31, 2007. Giving effect to the exclusion of certain costs related to Embarcadero s status as a publicly-traded company on a pro forma basis, Embarcadero s Pro Forma EBITDA would have been $15.4 million for the same twelve month period.

Review of Projected Financial Performance. Morgan Stanley reviewed two cases of Embarcadero s expected future financial performance for calendar year 2007 provided by Embarcadero s management. The Revised Management Case assumed substantial growth in quarterly license revenues for the remainder of calendar 2007 relative to the license revenue for the quarter ended March 31, 2007. The Sensitivity Case assumed more modest growth in quarterly license revenues for the remainder of calendar year 2007 relative to the license revenue for the quarter ended March 31, 2007. Morgan Stanley noted that Embarcadero management s forecast as of April 5, 2007 of license revenue for the quarter ending June 30, 2007 was consistent with the Sensitivity Case Forecast. A summary of the two cases is set forth in the following table:

Calendar Year Financial Statistic (Excluding Certain Non-Cash Expenses and Nonrecurring Items)	March (Actual)	June (Forecast)	September (Forecast)	December (Forecast)	Total (Forecast)
Revised Management					
Revenue	$ 13.3	$ 15.4	$ 15.6	$ 16.0	$ 60.2
Operating Income (excluding restatement expenses)	$ 1.8	$ 3.8	$ 4.0	$ 4.5	$ 14.0
Operating Income (including restatement expenses)	($ 0.4)	$ 3.5	$ 4.0	$ 4.5	$ 11.5
Earnings Per Share (excluding restatement expenses)	$ 0.06	$ 0.11	$ 0.11	$ 0.12	$ 0.40
Earnings Per Share (including restatement expenses)	$ 0.00	$ 0.10	$ 0.11	$ 0.12	$ 0.34
Sensitivity Case					
Revenue	$ 13.3	$ 14.6	$ 14.9	$ 15.5	$ 58.2
Operating Income (excluding restatement expenses)	$ 1.8	$ 3.1	$ 3.5	$ 4.1	$ 12.6
Operating Income (including restatement expenses)	($ 0.4)	$ 2.8	$ 3.5	$ 4.1	$ 10.1
Earnings Per Share (excluding restatement expenses)	$ 0.06	$ 0.09	$ 0.10	$ 0.12	$ 0.37
Earnings Per Share (including restatement expenses)	$ 0.00	$ 0.08	$ 0.10	$ 0.12	$ 0.30

Comparable Company Analysis. Morgan Stanley compared certain financial information of Embarcadero with publicly available consensus equity research estimates for two categories of other companies that shared similar business characteristics of Embarcadero. The first category consisted of companies that sell enterprise software products that are directly competitive with the products sold by Embarcadero or, more generally, sell software that address enterprise information technology infrastructure and database management. This category included the following software companies:

BMC Software, Inc.

CA, Inc.

Informatica Corporation

Oracle Corporation

Quest Software, Inc.

Sybase, Inc.

Morgan Stanley also compared certain financial information of Embarcadero with publicly available consensus equity research estimates for a second category of software companies with estimated revenue scale, revenue growth, and operating margins that were more comparable to Embarcadero s estimated revenue, revenue growth and operating margins, respectively. This category included the following software companies:

Altiris, Inc.

Ariba, Inc.

Borland Software Corp.

Interwoven, Inc.

IONA Technologies Plc

Progress Software Corporation

QAD, Inc.

- SPSS, Inc.
- Vignette Corporation
- webMethods, Inc.

For purposes of this analysis, Morgan Stanley analyzed the following statistics of each of these companies for comparison purposes:

- the ratio of aggregate value, as defined above, to estimated calendar year 2007 revenue (based on publicly available equity research estimates);
- the ratio of aggregate value, as defined above, to estimated calendar year 2007 EBITDA (based on publicly available equity research estimates);
- the ratio of price to estimated cash earnings per share, defined as net income excluding certain non-cash and non-recurring expenses divided by fully-diluted shares outstanding, for calendar year 2007 (based on publicly available equity research estimates); and
- the ratio of aggregate value, as defined above, to calendar year 2007 unlevered earnings, defined as earnings before interest and taxes (excluding certain non-cash expenses and nonrecurring items) less the tax that would be paid on such amount based on an estimated effective tax rate.

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Based on the analysis of the relevant metrics for each of the comparable companies, Morgan Stanley selected representative ranges of financial multiples and other statistics of the comparable companies and applied this range of multiples and statistics to the relevant Embarcadero financial statistic. For purposes of estimating revenues, EBITDA, unlevered earnings per share and cash earnings per share for calendar year 2007, Morgan Stanley utilized the management Sensitivity Case and Revised Management Case estimates as of April 5, 2007. Morgan Stanley also based its calculations on calendar year 2007 forecasts that both included and excluded restatement expenses related to investigation. Based on Embarcadero s outstanding shares and options as of April 5, 2007, Morgan Stanley estimated the implied value per Embarcadero common share as of April 5, 2007 as follows:

	Embarcadero Statistic ($ in millions except EPS)							
Calendar Year Financial Statistic	**Excluding Restatement Expenses**	**Including Restatement Expenses**	**Comparable Company Multiple Range**		**Implied Value Per Share Excluding Restatement Expenses**		**Implied Value Per Share Including Restatement Expenses**	
Sensitivity Case								
Aggregate Value to Estimated 2007 Revenue	$ 58.2	$ 58.2	1.5x	2.5x	$ 5.85	$7.87	$ 5.85	$7.87
Aggregate Value to Estimated 2007 EBITDA	$ 14.0	$ 11.5	7.0x	11.0x	$ 6.22	$8.15	$ 5.60	$7.21
Price to Estimated 2007 Cash Earnings Per Share	$ 0.37	$ 0.30	15.0x	19.0x	$ 5.51	$6.98	$ 4.57	$5.79
Aggregate Value to Estimated 2007 Unlevered Earnings	$ 8.5	$ 6.8	13.0x	17.0x	$ 6.69	$7.86	$ 5.91	$6.87
Revised Management Case								
Aggregate Value to Estimated 2007 Revenue	$ 60.2	$ 60.2	1.5x	2.5x	$ 5.96	$8.04	$ 5.96	$8.04
Aggregate Value to Estimated 2007 EBITDA	$ 15.4	$ 12.9	7.0x	11.0x	$ 6.57	$8.67	$ 5.95	$7.74
Price to Estimated 2007 Cash Earnings Per Share	$ 0.40	$ 0.34	15.0x	19.0x	$ 6.03	$7.64	$ 5.09	$6.45
Aggregate Value to Estimated 2007 Unlevered Earnings	$ 9.5	$ 7.8	13.0x	17.0x	$ 7.12	$8.41	$ 6.35	$7.43

No company utilized in the comparable company analysis is identical to Embarcadero. In evaluating comparable companies, Morgan Stanley made judgments and assumptions with regard to industry performance, general business, economic, market and financial conditions and other matters, many of which are beyond the control of Embarcadero, such as the impact of competition on the businesses of Embarcadero and the industry generally, industry growth and the absence of any adverse material change in the financial condition and prospects of Embarcadero or the industry or in the financial markets in general. Mathematical analysis (such as determining the average or median) is not in itself a meaningful method of using comparable company data.

Discounted Equity Value Analysis. Morgan Stanley performed a discounted equity value analysis, which is designed to provide insight into the estimated future value of a company s common equity as a function of the company s estimated future earnings and its current forward price to earnings ratio. The resulting value is subsequently discounted to arrive at a present value for such company s stock price. In connection with this analysis, Morgan Stanley calculated a range of present equity values per share of the Common Stock on a standalone basis. To calculate the discounted equity value, Morgan Stanley utilized two calendar year 2008 forecasts based on extrapolations from Revised Management Case and Sensitivity Case estimates. The calendar 2008 forecast was based on two scenarios with assumptions for revenue growth and operating margin. One scenario assumed that Embarcadero revenue in calendar 2008 would be equivalent to revenue in 2007 and that Embarcadero would have a 27% margin of operating income to revenue. The other scenario assumed that Embarcadero s revenue in calendar 2008 would be 10% greater than revenue in 2007 and that Embarcadero

would have a 20% margin of operating income to revenue. Morgan Stanley applied a range of price to earnings multiples to these estimates and applied a discount rate of 12% to derive ranges of future values per share.

The following table summarizes Morgan Stanley s analysis:

Calendar Year 2008E	Earnings Per Share		Comparable Company Multiple Range		Implied Value Per Share of Embarcadero		
Sensitivity Case							
2008E Earnings Per Share (0% Revenue Growth / 27% Operating Margin)	$	0.45	15.0x	17.0x	$	6.06	$6.87
2008E Earnings Per Share (10% Revenue Growth / 20% Operating Margin)	$	0.38	19.0x	21.0x	$	6.47	$7.15
Revised Management Case							
2008E Earnings Per Share (0% Revenue Growth / 27% Operating Margin)	$	0.47	15.0x	17.0x	$	6.24	$7.08
2008E Earnings Per Share (10% Revenue Growth / 20% Operating Margin)	$	0.39	19.0x	21.0x	$	6.65	$7.35

Analysis of Precedent Transactions. Morgan Stanley compared publicly available statistics for 23 selected software sector transactions between January 1, 2003 and April 5, 2007 in which the target company was publicly traded and transaction values were between $100 million and $500 million. The following is a list of these transactions:

Selected Precedent Transactions (Target / Acquiror)

@Road, Inc. / Trimble Navigation Ltd.

Bindview Development Corp. / Symantec Corp.

Brio Software, Inc. / Hyperion Solutions Corp.

Captiva Software Corp. / EMC Corp.

Click Commerce, Inc. / Illinois Tool Works, Inc.

Concord Communications, Inc. / Computer Associates International Inc.

Corio, Inc. / International Business Machines

CyberGuard Corp. / Secure Computing Corp.

Epiphany, Inc. / SSA Global Technologies, Inc.

FreeMarkets, Inc. / Ariba, Inc.

Hummingbird Ltd. / Open Text Corp.

iManage, Inc. / Interwoven

IXOS Software AG / Open Text Corp.

Manugistics Group, Inc. / JDA Software Group, Inc.

MAPICS, Inc. / Infor Global Solutions, Inc.

Marimba, Inc. / BMC Software, Inc.

Merant Plc / Serena Software, Inc.

NetIQ Corp. / AttachmateWRQ, Inc.

Niku Corp. / Computer Associates International Inc.

Plumtree Software, Inc. / BEA Systems, Inc.

Portal Software, Inc / Oracle Corporation

SeeBeyond Technology Corp. / Sun Microsystems, Inc.

Stellent, Inc. / Oracle Corporation

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For each transaction noted above, Morgan Stanley noted that the following financial statistics where available for each of the foregoing transactions: (1) implied premium paid to closing share price one trading day prior to announcement of the transaction; (2) implied premium paid to 30 trading day average closing share price prior to announcement of the transaction; (3) implied premium to aggregate value one trading day prior to announcement; (4) aggregate value to last twelve months revenue; and (5) aggregate value to estimated next twelve months revenue. The following table summarizes Morgan Stanley s analysis:

Precedent Transaction Financial Statistic	Reference Range Premium/Multiple		Implied Value Per Share		Embarcadero Merger Statistic Premium/Multiple
Unaffected Prices					
Premium to 1-day prior closing share price	10%	25%	$ 6.91	$7.85	15%
Premium to 30-day average closing share price	15%	45%	$ 7.18	$9.06	15%
Premium to 1-day prior aggregate value	20%	40%	$	6.98 - $7.66	26%
Actual Prices					
Premium to 1-day prior closing share price	10%	25%	$ 7.57	$8.60	5%
Premium to 30-day average closing share price	15%	45%	$ 7.59	$9.57	9%
Premium to 1-day prior aggregate value	20%	40%	$ 7.68	$8.47	8%
Revenue Multiples					
Aggregate Value to Actual Last Twelve Months Revenues	1.8x	3.5x	$ 6.50	$9.91	2.1x
Aggregate Value to Expected Next Twelve Months Revenues (based on Sensitivity Case)	1.5x	3.0x	$ 5.89	$8.94	2.1x
Aggregate Value to Expected Next Twelve Months Revenues (based on Revised Management Case)	1.5x	3.0x	$ 6.01	$9.17	2.1x

Morgan Stanley also compared publicly available statistics for 11 selected software transactions between January 1, 2002 and April 5, 2007 where transaction values were greater than $100 million and the acquirer was a financial buyer. The following is a list of these transactions:

Aspect Communications Corporation / Concerto Software

Concerto Software / Golden Gate Capital

DoubleClick, Inc. / Hellman & Friedman LLC

GEAC Computer Corp. / Infor Global Solutions, Inc.

MAPICS, Inc. / Infor Global Solutions, Inc

MSC Software Corp. / ValueAct Capital Partners LP

Open Solutions Inc. / Investor Group

SafeNet, Inc. / Vector Capital

Serena Software, Inc. / Silver Lake Partners LLP

SS&C Technologies, Inc. / The Carlyle Group LLC

SunGard Data Systems Inc. / Investor Group

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For each transaction noted above, Morgan Stanley reviewed the aggregate value to last twelve months EBITDA defined as earnings before interest, taxes, depreciation and amortization (excluding certain non-cash expenses and nonrecurring items) of the subject company. Morgan Stanley applied a range of these ratios to Embarcadero s last twelve months EBITDA, both excluding and including expenses related to restatement. The following table summarizes Morgan Stanley s analysis:

Precedent Transaction Financial Statistic	Reference Range	Implied Value Per Share	Embarcadero Merger Statistic
Aggregate Value to Last Twelve Months EBITDA excluding restatement expenses	7.0x 14.0x	$ 6.09 $9.33	9.4x
Aggregate Value to Last Twelve Months EBITDA including restatement expenses	7.0x 14.0x	$ 5.19 $7.59	12.8x

No company or transaction utilized in the precedent transaction analysis is identical to Embarcadero or the merger. In evaluating the precedent transactions, Morgan Stanley made judgments and assumptions with regard to general business, market and financial conditions and other matters, which are beyond the control of Embarcadero, such as the impact of competition on the business of Embarcadero or the industry generally, industry growth and the absence of any adverse material change in the financial condition of Embarcadero or the industry or in the financial markets in general, which could affect the public trading value of the companies and the aggregate value of the transactions to which they are being compared.

Leveraged Buyout Analysis. Morgan Stanley also analyzed Embarcadero from the perspective of a potential purchaser that was primarily a financial buyer that would effect a leveraged buyout of Embarcadero using a ratio of debt to last twelve months EBITDA consistent with the ratio of debt to last twelve months EBITDA expected upon completion of the merger. Morgan Stanley observed the transaction prices per share that would be necessary for an acquiror to achieve certain internal rates of return assuming a 2011 exit of the investor s investment. The analysis assumed (i) the Sensitivity Case and Revised Management Case through calendar year 2007, and extrapolations to the Sensitivity Case and Revised Management Case for calendar years 2008 to 2011, (ii) realization of the equity investment through the sale of 100% of Embarcadero at the end of calendar 2011 at a valuation of 7.0x - 9.0x 2011 EBITDA for both the Sensitivity Case and the Revised Management Case, and (iii) an investor s targeted internal rate of return of 20% - 30% for the Sensitivity Case and the Management Upside Case assuming a 2011 exit of the investor s investment. These ranges are detailed below:

Leveraged Buyout Analysis Forecast Case	Internal Rate of Return Range	Implied Value Per Share of Embarcadero
Sensitivity Case	20% 30%	$ 6.43 $7.41
Revised Management Case	20% 30%	$ 6.52 $7.55

In connection with the review of the merger by Embarcadero s board of directors, Morgan Stanley performed a variety of financial and comparative analyses for purposes of rendering its opinion. The preparation of a fairness opinion is a complex process and is not necessarily susceptible to a partial analysis or summary description. In arriving at its opinion, Morgan Stanley considered the results of all of its analyses as a whole and did not attribute any particular weight to any analysis or factor it considered. Morgan Stanley believes that selecting any portion of its analyses, without considering all analyses as a whole, would create an incomplete view of the process underlying its analyses and opinion. In addition, Morgan Stanley may have given various analyses and factors more or less weight than other analyses and factors, and may have deemed various assumptions more or less probable than other assumptions. As a result, the ranges of valuations resulting from any particular analysis described above should not be taken to be Morgan Stanley s view of the actual value of Embarcadero. In performing its analyses, Morgan Stanley made numerous assumptions with respect to industry performance, general business and economic conditions and other matters. Many of these assumptions are beyond the control of Embarcadero. Any estimates contained in Morgan Stanley s analyses are not necessarily indicative of future results or actual values, which may be significantly more or less favorable than those suggested by such estimates.

Morgan Stanley conducted the analyses described above solely as part of its analysis of the fairness of the consideration pursuant to the merger agreement from a financial point of view to holders of shares of Embarcadero common stock and in connection with the delivery of its opinion, dated April 5, 2007, to Embarcadero s board of directors. These analyses do not purport to be appraisals or to reflect the prices at which shares of common stock of Embarcadero might actually trade.

The consideration was determined through arm s length negotiations between Embarcadero and the Parent and was approved by Embarcadero s board of directors. Morgan Stanley provided advice to Embarcadero s board of directors during these negotiations. Morgan Stanley did not, however, recommend any specific merger consideration to Embarcadero or its board of directors or that any specific merger consideration constituted the only appropriate consideration for the merger.

Morgan Stanley s opinion and its presentation to Embarcadero s board of directors was one of many factors taken into consideration by Embarcadero s board of directors in deciding to approve the merger agreement. Consequently, the analyses as described above should not be viewed as determinative of the opinion of Embarcadero s board of directors with respect to the merger consideration or of whether Embarcadero s board of directors would have been willing to agree to a different merger consideration. The foregoing summary describes the material analyses performed by Morgan Stanley but does not purport to be a complete description of the analyses performed by Morgan Stanley.

Embarcadero s board of directors retained Morgan Stanley based upon Morgan Stanley s qualifications, experience and expertise. Morgan Stanley is an internationally recognized investment banking and advisory firm. Morgan Stanley, as part of its investment banking and financial advisory business, is continuously engaged in the valuation of businesses and securities in connection with mergers and acquisitions, negotiated underwritings, competitive biddings, secondary distributions of listed and unlisted securities, private placements and valuations for corporate, estate and other purposes. In the ordinary course of Morgan Stanley s trading and brokerage activities, Morgan Stanley or its affiliates may at any time hold long or short positions, may trade or otherwise effect transactions, for its own account or for the account of customers in the equity and other securities of Embarcadero, TCB or any other parties, commodities or currencies involved in the merger. In addition, Morgan Stanley, its affiliates, directors or officers, including individuals working with Embarcadero in connection with the merger, may have committed and may commit in the future to invest in private equity funds managed by affiliates of TCB.

Under the terms of its engagement letter, Morgan Stanley provided Embarcadero financial advisory services and a financial opinion in connection with the merger, and Embarcadero has agreed to pay Morgan Stanley a fee of approximately $3.0 million for its services, a substantial portion of which is contingent upon the consummation of the merger. Embarcadero has also agreed to reimburse Morgan Stanley for other expenses, including attorneys fees, incurred in performing its services. In addition, Embarcadero has agreed to indemnify Morgan Stanley and any of its affiliates, their respective directors, officers, agents and employees and each person, if any, controlling Morgan Stanley or any of its affiliates against certain liabilities and expenses, including certain liabilities under the federal securities laws, relating to or arising out of Morgan Stanley s engagement and any related transactions.

Financing of the Merger

TCB estimates that the total amount of funds required to pay the aggregate merger consideration in connection with the merger will be approximately $200,000,000. TCB expects this amount, together with the related working capital requirements of Embarcadero following the completion of the merger, to be provided through a combination of the proceeds of the following:

- an aggregate cash equity investment in EMBT Holdings, Inc. by TCB, Thoma Cressey Fund VIII, L.P. and other potential co-investors (which may include other affiliates of TCB), which we refer to in this proxy statement as the Investors, of up to approximately $52,000,000;

new senior secured credit facilities in the aggregate amount of $100,000,000, consisting of two term loans in the amounts of $65,000,000 and $25,000,000, respectively, and a $10,000,000 revolving credit facility; and

cash and cash equivalents held by Embarcadero and its subsidiaries.

The shares of EMBT Merger Corp. will convert into shares of the surviving corporation as a result of the merger.

Interests of Certain Persons in the Merger

Stock Options

All outstanding options to purchase Embarcadero common stock, including those held by our directors and executive officers, will accelerate and become fully vested immediately prior to the completion of the merger, and in the case of any options having an exercise price less than $7.20 per share, will entitle the holder thereof to receive an amount in cash equal to the product of (i) the total number of shares of Embarcadero common stock subject to the option, multiplied by (ii) the excess of $7.20 over the exercise price per share, less applicable withholding taxes. Certain options granted to our directors and executive officers were repriced in connection with the Special Committee s review of the Company s stock option grant practices, and these options were cancelled in connection with the execution of the merger agreement. In addition, at the request of Parent, our board of directors amended our Amended and Restated 2000 Nonemployee Directors Stock Option Plan in April 2007 to suspend scheduled quarterly grants of stock options to nonemployee directors until such time as the merger is completed or the merger agreement is terminated. See Beneficial Ownership of the Company s Stock on page 66.

Restricted Stock

All outstanding shares of restricted Embarcadero common stock, including 25,000 shares held by Mr. Sabhlok and 43,750 shares held by Mr. Shahbazian, will accelerate and become fully vested immediately prior to the completion of the merger, and any repurchase option will lapse, after which each such share will be converted into the right to receive $7.20 in cash, without interest.

Change in Control Benefits

In October 2005, we entered into an employment agreement with Michael Shahbazian, our Chief Financial Officer. Pursuant to his employment agreement, Mr. Shahbazian received inducement grants of an option to purchase, at $6.53 per share, 200,000 shares of our common stock and 100,000 shares of restricted common stock, subject to certain time-based vesting provisions. Under the terms of the employment agreement, all unvested stock options and restricted common stock held by Mr. Shahbazian will become fully vested upon the completion of the merger and the termination of his employment as Chief Financial Officer after the merger. In addition, the Company will continue to pay Mr. Shahbazian s base salary, which is currently set at $240,000 per year, for a period of 12 months following his termination, and COBRA health care insurance during such 12 month period. Mr. Shahbazian will also be entitled to receive a pro rata portion of his annual target bonus up to the date of termination. On April 5, 2007, in connection with the approval of the merger agreement, our board of directors also approved the payment by the Company to Mr. Shahbazian of a one-time transaction bonus in the amount of $100,000 in cash, which will be payable in full upon the consummation of the merger.

In February 2007, we adopted a Change of Control Policy (the ***Policy***) that currently applies to Wayne Williams, our Chief Technology Officer, Greg Davoll, our Vice President of Marketing, Greg Keller, our Vice President of Product Management, and Scott Schoonover, our Vice President, Worldwide Sales. As applied to Mr. Williams, the Policy provides that if the Company terminates his employment for any reason other than for cause, or if Mr. Williams terminates his employment for good reason, as defined in the Policy, within twelve months following the consummation of the merger, the Company will be required to provide Mr. Williams with

one year annual base salary, immediate vesting upon the termination date of any outstanding equity awards, and continued medical benefits for up to twelve months following the termination date. As applied to any of Messrs. Davoll, Keller and Schoonover, the Policy provides that if the Company terminates his employment for any reason other than for cause, or if any of Messrs. Davoll, Keller or Schoonover terminates his employment for good reason, as defined in the Policy, within twelve months following the consummation of the merger, the Company will be required to provide him with six months base salary, immediate vesting upon the termination date of any outstanding equity awards, and continued medical benefits for up to six months following the termination date.

Indemnification and Insurance

As a condition to the consummation of the merger, Parent or the surviving corporation is required to obtain a directors and officers insurance policy that provides for coverage for acts or omissions of the existing directors and executive officers of the Company occurring prior to the effective time of the merger. As the surviving corporation, Embarcadero is also required after completion of the merger to maintain this insurance policy and certain indemnification policies applicable to such existing directors and executive officers of the Company for a period of six years following the effective time of the merger. See The Merger Agreement Indemnification beginning on page 57.

Positions with the Surviving Corporation

In connection with the merger agreement, Raj Sabhlok, our current Senior Vice President of Operations, has entered into a new employment agreement that will become effective upon completion of the merger. Pursuant to his employment agreement, Mr. Sabhlok will become the Chief Executive Officer of the surviving corporation. In its report to the Company s board of directors regarding its review of the Company s historical stock option grant practices, the Special Committee recommended, among other things, that Mr. Sabhlok either resign or be terminated, and the board accepted this recommendation. Parent required the Company to continue to employ Mr. Sabhlok as a condition to entering into the merger agreement and also required the Company to enter into the employment agreement with Mr. Sabhlok that is to become effective upon consummation of the merger. On May 23, 2007, the Company s board of directors determined that Mr. Sabhlok should either resign or be terminated upon the earlier of the termination of the merger agreement or July 16, 2007, in the event that the merger has not been consummated by that date.

The employment agreement provides, among other things, for severance payments to Mr. Sabhlok in the event of termination of his employment under certain circumstances. In addition, Mr. Sabhlok will be entitled, subject to various time-based and performance-based conditions, to receive equity incentive awards in EMBT Holdings, Inc. upon completion of the merger. We expect that Mr. Sabhlok will also enter into a non-competition agreement with the surviving corporation prior to completion of the merger. We also expect that Scott Schoonover, Greg Davoll, Greg Keller and Wayne Williams, our Vice President, Worldwide Sales, Vice President, Marketing, Vice President, Product Management, and Chief Technology Officer respectively, will enter into employment agreements and non-competition agreements with the surviving corporation prior to the completion of the merger and that each will continue to serve in such positions with the surviving corporation following the merger. See Other Agreements Employment Agreements on page 62 and Other Agreements Non-Competition Agreements on page 63. We further expect that Michael Shahbazian, our Chief Financial Officer, will resign following the merger and will not continue to serve with the surviving corporation. Upon the termination of Mr. Shahbazian s employment, he will be entitled to receive certain benefits. See The Merger Interests of Certain Persons in the Merger Change in Control Benefits on page 37.

Equity Investment in EMBT Holdings, Inc.

Pursuant to his employment agreement, upon completion of the merger, Mr. Sabhlok is entitled to invest $720,000 of his proceeds from the merger in shares of capital stock of EMBT Holdings, Inc., representing

approximately 1.28% of the equity capital of that company, on the same terms as TCB and the other Investors. See Other Agreements Employment Agreements on page 62.

Material U.S. Federal Income Tax Consequences

The following discusses, subject to the limitations stated below, the material U.S. federal income tax consequences of the merger to U.S. holders of Embarcadero common stock whose shares of common stock are converted into the right to receive cash pursuant to the merger (whether upon the receipt of the merger consideration or pursuant to the proper exercise of appraisal rights). Non-U.S. holders of our common stock may have different tax consequences than those described below and are urged to consult their tax advisors regarding the tax treatment to them under U.S. and non-U.S. tax laws. We base this summary on the provisions of the Internal Revenue Code of 1986, or the Code, applicable current and proposed U.S. Treasury Regulations, judicial authority, and administrative rulings and practice. All of the above are subject to change, possibly on a retroactive basis, and we do not undertake to advise you of any changes in applicable law that occur after the date of the merger.

This summary does not address all aspects of U.S. federal income taxation that may be relevant to particular stockholders in light of their individual circumstances, nor to certain types of holders who are subject to special treatment under the federal income tax laws, such as tax-exempt organizations; insurance companies; financial institutions; persons subject to alternative minimum tax; broker-dealers; persons who do not hold their shares of Embarcadero common stock as a capital asset; persons who hold stock as part of a hedge, appreciated financial position, straddle or conversion transaction; persons whose functional currency is not the United States dollar; persons who acquired their Embarcadero common stock pursuant to the exercise of employee stock options or otherwise as compensation; and persons who are not U.S. holders. In addition, the following discussion does not address foreign, state or local tax considerations, the tax consequences of transactions effected before or subsequent to or concurrently with the merger (whether or not these transactions are in connection with the merger), including transactions in which shares of EMBT Holdings, Inc. are acquired by any stockholder or former stockholder. **Accordingly, holders of shares of Embarcadero common stock are urged to consult their own tax advisors regarding the tax consequences of the merger in light of their particular circumstances, including the applicable federal, state, local and foreign tax laws.**

For purposes of this discussion, the term U.S. holder means a beneficial owner of Embarcadero common stock that is:

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

The U.S. federal income taxes of a partner in a partnership holding our common stock will depend on the status of the partner and the activities of the partnership. Partners in a partnership holding shares of our common stock should consult their own tax advisors.

The receipt of cash pursuant to the merger (whether as merger consideration or pursuant to the proper exercise of appraisal rights) by U.S. holders of our common stock will be a taxable transaction for U.S. federal income tax purposes. In general, for U.S. federal income tax purposes, a U.S. holder of our common stock will recognize gain or loss equal to the difference between:

- the amount of cash received in exchange for such common stock and

the U.S. holder s adjusted tax basis in such common stock.

Such gain or loss will be capital gain or loss. If the holding period of the common stock surrendered in the merger is greater than one year as of the date of the merger, the gain or loss on that stock will be long-term capital gain or loss. The deductibility of a capital loss recognized on the exchange is subject to limitations under the Code. Certain U.S. holders, including individuals, are eligible for preferential rates of U.S. federal income tax in respect of long-term capital gains. If you acquired different blocks of our common stock at different times and different prices, you must calculate your gain or loss and determine your adjusted tax basis and holding period separately with respect to each block of our common stock.

Under the Code, as a U.S. holder of our common stock, you may be subject to information reporting on the cash received pursuant to the merger unless an exemption applies. Backup withholding may also apply (currently at a rate of 28%) with respect to the amount of cash received pursuant to the merger. In general, backup withholding is not required if you provide us with a valid taxpayer identification number, and otherwise comply with the applicable requirements of the backup withholding rules. Backup withholding is not an additional tax and any amounts withheld under the backup withholding rules may be refunded or credited against your U.S. federal income tax liability, if any, provided that you furnish the required information to the Internal Revenue Service in a timely manner.

Accounting Treatment

The merger is intended to be accounted for as a purchase under U.S. generally accepted accounting principles (***GAAP***). Accordingly, it is expected that the basis of Embarcadero in its assets and liabilities will be adjusted to fair market value on completion of the merger, including the establishment of goodwill.

Regulatory Approvals

The Hart-Scott-Rodino Antitrust Improvements Act of 1976 and related rules, or the ***HSR Act***, provide that transactions such as the merger may not be completed until certain information has been submitted to the Federal Trade Commission and the Antitrust Division of the U.S. Department of Justice and specified waiting period requirements have been satisfied. Embarcadero and the parent of EMBT Merger Corp. made the required filings with the Antitrust Division and the Federal Trade Commission on September 22, 2006, and we received notice of earlier termination of the applicable waiting period on October 2, 2006. Such notice of earlier termination of the applicable waiting period from the Federal Trade Commission is effective for a period of 12 months from receipt thereof.

At any time before or after completion of the merger, the Antitrust Division of the Department of Justice or the Federal Trade Commission may, however, challenge the merger on antitrust grounds. Private parties could take antitrust action under the antitrust laws and seek an injunction prohibiting or delaying the merger, divestiture or damages under certain circumstances. Additionally, at any time before or after completion of the merger, notwithstanding the expiration or termination of the applicable waiting period, any state could take action under its antitrust laws as it deems necessary or desirable in the public interest. There can be no assurance that a challenge to the merger will not be made or that, if a challenge is made, Embarcadero and EMBT Merger Corp. will prevail.

Except as noted above with respect to the required filings under the HSR Act and the filing of a certificate of merger in Delaware at or before the effective date of the merger, we are unaware of any material federal, state or foreign regulatory requirements or approvals required for the execution of the merger agreement or completion of the merger.

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THE PARTIES TO THE MERGER

Embarcadero Technologies, Inc.

Embarcadero Technologies, Inc.

100 California Street, 12th Floor

San Francisco, California 94111

Telephone: (415) 834-3131

We are a Delaware corporation with our principal executive offices at 100 California Street, 12th Floor, San Francisco, California 94111. Our telephone number is (415) 834-3131. We were incorporated in California on July 23, 1993 and reincorporated in Delaware on February 15, 2000.

We deliver professional grade database tools that companies use to design, develop and manage databases and the data they contain. More than 12,000 customers worldwide and over 90 Fortune 100 rely on our cross- platform tools to reduce complexity, improve productivity and strengthen security. Our flagship database tools include: ER/Studio®, DBArtisan®, Rapid SQL® and Change Manager. Founded in 1993, we are headquartered in San Francisco with offices in Melbourne, Australia, Munich, Germany, and Maidenhead, United Kingdom.

EMBT Merger Corp.

EMBT Merger Corp.

c/o Thoma Cressey Bravo, Inc.

600 Montgomery Street, 32nd Floor

San Francisco, CA 94111

Telephone: (415) 263-3660

EMBT Merger Corp. was incorporated in Delaware on August 24, 2006 by EMB Holding Corp. solely for the purpose of completing the merger and the related transactions. EMBT Merger Corp. has not participated in any activities to date other than activities incident to its formation and the transactions contemplated by the merger agreement. In connection with the merger, EMBT Merger Corp. will be merged with and into Embarcadero and its separate existence will cease. As of the date of this proxy statement, EMB Holding Corp. is the sole stockholder of EMBT Merger Corp.

EMB Holding Corp.

EMB Holding Corp.

c/o Thoma Cressey Bravo, Inc.

600 Montgomery Street, 32nd Floor

San Francisco, CA 94111

Telephone: (415) 263-3660

EMB Holding Corp., which we refer to in this proxy statement as Parent, is an affiliate of Thoma Cressey Bravo, Inc., and was incorporated in Delaware on August 24, 2006. EMB Holding Corp. has not participated in any activities to date other than activities incident to its formation and the transactions contemplated by the merger agreement. In connection with the merger, EMBT Merger Corp. will merge with and into the

Company, and the Company will survive as a wholly-owned subsidiary of EMB Holding Corp.

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OTHER PARTICIPANTS

Thoma Cressey Bravo, Inc.

Thoma Cressey Bravo, Inc.

600 Montgomery Street, 32nd Floor

San Francisco, CA 94111

Telephone: (415) 263-3660

Thoma Cressey Bravo, Inc., which we refer to in this proxy statement as TCB, is a Delaware corporation and its principal business is investing in strategic business opportunities, principally in the information technology, healthcare, business services and consumer products and services fields. Thoma Cressey Bravo, Inc. (formerly known as Thoma Cressey Equity Partners, Inc.) was formed in the state of Delaware on December 19, 1997. In connection with the merger, TCB formed EMBT Holdings, Inc. to hold all of the shares of Parent. The managing partners of Thoma Cressey Bravo, Inc. are Carl D. Thoma, Bryan C. Cressey, David J. Mayer, Lee M. Mitchell and Orlando Bravo.

EMBT Holdings, Inc.

EMBT Holdings, Inc.

c/o Thoma Cressey Bravo, Inc.

600 Montgomery Street, 32nd Floor

San Francisco, CA 94111

Telephone: (415) 263-3660

EMBT Holdings, Inc. is an affiliate of Thoma Cressey Bravo, Inc., and was incorporated in Delaware on August 24, 2006, solely for the purpose of holding the shares of EMB Holding Corp. EMBT Holdings, Inc. has not participated in any activities to date other than activities incident to its formation and the transactions contemplated by the merger agreement. EMBT Holdings, Inc. is the sole stockholder of EMB Holding Corp. In connection with the merger, Thoma Cressey Bravo, Inc., together with other potential investors, including Thoma Cressey Fund VIII, L.P. and one of our executive officers, are expected to make equity investments in EMBT Holdings, Inc. Thoma Cressey Fund VIII, L.P. is an affiliated fund of TCB and invests largely in companies in the software and healthcare industries, as well as in areas such as business services and consumer products and services.

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CURRENT EXECUTIVE OFFICERS AND DIRECTORS OF THE COMPANY

Each of the directors and executive officers of Embarcadero is a citizen of the United States and, except as provided below, has his or her principal business address and telephone at Embarcadero Technologies, Inc., 100 California Street, 12th Floor, San Francisco, California 94111, (415) 834-3131.

The directors and executive officers of Embarcadero, the date they became director or executive officer, their current occupation and their material employment during the last five years, as of May 1, 2007, are as follows:

Name	Position	Occupation or Employment
Michael Shahbazian	Senior Vice President and Chief Financial Officer	Mr. Shahbazian has served as our Senior Vice President and Chief Financial Officer since October 2005. From January 2003 to August 2005, Mr. Shahbazian was Senior Vice President and Chief Financial Officer of Niku Corporation, an information technology management and governance software company. He also served as Chief Financial Officer of the following companies: ANDA Networks, a telecommunications equipment company, from November 2000 to November 2002; Inventa Technologies, a corporate systems integrator, from February 2000 to November 2000; and Walker Interactive, a provider of client-server/network computing software products, prior to February 2000. Prior to these roles, Mr. Shahbazian spent nearly 20 years with Amdahl Corporation in a variety of senior finance positions.
Raj P. Sabhlok	Senior Vice President of Operations	Mr. Sabhlok has served as our Senior Vice President of Operations since October 2005. He served as our Chief Financial Officer and Senior Vice President of Corporate Development from January 2000 to October 2005. From March 1995 until January 2000, Mr. Sabhlok was employed by BMC Software, Inc., an enterprise software company, where he served as the Director of Business Development from April 1997. From February 1988 until February 1995, Mr. Sabhlok held a number of technical, marketing and sales management positions with The Santa Cruz Operation, Inc., a UNIX software development company.
Scott B. Schoonover	Vice President, Worldwide Sales	Mr. Schoonover has served as our Vice President, Worldwide Sales since October 2006. From July 1993 to May 2006, Mr. Schoonover was employed by BMC Software, Inc., an enterprise software company, where he served in various roles, most recently as Senior Director, Emerging Growth & Field Partner Sales, from April 2005 to May 2006. From May 2004 to March 2005, he served as Senior Director, Remedy Sales, and from April 2001 to April 2004, he served as Area Director - Sales & Services for BMC.
Timothy C.K. Chou	Director	Timothy C.K. Chou has served as a member of our Board of Directors since July 2000. Mr. Chou is currently the Chief Financial Officer of Openwater Software, Inc. From November 1999 to January 2005, he served as President of Oracle On Demand, a division of Oracle Corporation and a leading application service provider. In addition, Mr. Chou serves on the technical advisory board of Webex, Inc., an online conferencing company, and is a lecturer at Stanford University. From October 1996 through October 1999, Mr. Chou served as Chief Operating Officer of Reasoning, Inc., an information technology services firm. From September 1994 through September 1996, Mr. Chou served as Vice President, Server Products, of Oracle Corporation.

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Name	Position	Occupation or Employment
Gary E. Haroian	Director	Gary E. Haroian has served as a member of our Board of Directors since July 2004. Mr. Haroian is currently a consultant to emerging technology companies. From April 2000 to October 2002, Mr. Haroian served in various positions at Bowstreet, Inc., a provider of software application tools, including its Chief Financial Officer, Chief Operating Officer and Chief Executive Officer. From 1997 to 2000, Mr. Haroian served as Senior Vice President of Finance and Administration and Chief Financial Officer of Concord Communications, Inc., a network management software company. From 1983 to 1996, Mr. Haroian served in various positions at Stratus Computer, a provider of fault-tolerant computers, including as Chief Financial Officer, President and Chief Operating Officer and as Chief Executive Officer. Prior to his career as a corporate executive, Mr. Haroian was a CPA in a major public accounting firm. He is currently a member of the board of directors and chairman of the audit committee of four public companies: Network Engines, Inc., a developer and manufacturer of security and storage appliances; Aspen Technology, Inc., a provider of software and implementation services to process manufacturing companies; Lightbridge Inc., an analytics, decisioning and e-commerce company; and Phase Forward Inc., a provider of software for clinical trials and drug safety.
Frank M. Polestra	Director	Frank M. Polestra has served as a member of our Board of Directors since November 1999. He has been a partner of Ascent Venture Partners, a venture capital firm, since January 1, 2005. Prior to that, he was the Managing Director of Ascent Venture Partners beginning in March 1999. From 1980 to February 1999, Mr. Polestra served as President of Pioneer Capital Corp., a venture capital firm.
Michael J. Roberts	Director	Michael J. Roberts has served as a member of our Board of Directors since March 2000. He was elected Lead Independent Director by the Board in April 2005. He has been Senior Lecturer and Executive Director of Entrepreneurial Studies at the Harvard Business School since June 1997. From 1995 through May 1997, Mr. Roberts served as an independent consultant to new ventures primarily in the health care services, wireless communications, automobile services and restaurant industries. Mr. Roberts is also a member of the boards of directors of three privately held companies: Geode Capital Management, LLC, an investment advisor for institutional clients; Praendex Inc., a management consulting firm; and Kingsley Management, LLC, a full service car wash development and management company.

Name	Position	Occupation or Employment
Samuel T. Spadafora	Director	Samuel T. Spadafora has served as a member of our Board of Directors since May 2003. From November 1999 to November 2006, he served as the chairman of the board of directors of Chordiant Software, Inc., a provider of customer relationship management software, where he also served as Chief Strategy Officer from November 2003 to November 2006. Mr. Spadafora served as Chief Executive Officer and as a director of Chordiant from June 1998 to January 2002 and, from June 1998 until October 2000, he was also Chordiant s President. Mr. Spadafora retired from Chordiant Software, Inc. in November 2006. From April 1994 to June 1998, Mr. Spadafora served as Vice President of Worldwide Field Operations for the microelectronic business of Sun Microsystems, Inc., a computer systems and networking company.

During the past five years, none of Embarcadero or our executive officers, directors or controlling persons has been convicted in a criminal proceeding (other than traffic violations or similar misdemeanors) or been a party to any judicial or administrative proceeding (except for matters that were dismissed without sanction or settlement) that resulted in a judgment, decree, or final order enjoining that person or entity from future violations of, or prohibiting activities subject to, federal or state securities laws, or a finding of any violation of federal or state securities laws.

THE SPECIAL MEETING

Time, Place and Purpose of the Special Meeting

This proxy statement is being furnished to our stockholders as part of the solicitation of proxies by our board of directors for use at the special meeting to be held on Friday, June 22, 2007, at 10:00 a.m., local time, at Embarcadero s principal executive offices located at 100 California Street, 12th Floor, San Francisco, California 94111. The purpose of the special meeting is for our stockholders to consider and vote upon a proposal to adopt the merger agreement, to adjourn the meeting, if necessary, to solicit additional proxies if there are insufficient votes at the time of the meeting to adopt the merger agreement and to act upon other matters and transact other business, as may properly come before the meeting. A copy of the merger agreement is attached to this proxy statement as *Annex A*. This proxy statement, the notice of the special meeting and the enclosed form of proxy are first being mailed to our stockholders on or about May 31, 2007.

Record Date, Quorum and Voting Power

You are entitled to vote at the special meeting if you owned shares of Embarcadero common stock at the close of business on May 1, 2007, the record date for the special meeting. Each outstanding share of Embarcadero common stock on the record date entitles the holder to one vote on each matter submitted to stockholders for approval at the special meeting. As of the close of business on the record date, there were 26,134,970 shares of Embarcadero common stock entitled to be voted at the special meeting.

The holders of a majority of the outstanding common stock on the record date, represented in person or by proxy, will constitute a quorum for purposes of the special meeting. A quorum is necessary to hold the special meeting. Once a share is represented at the special meeting, it will be counted for the purpose of determining a quorum at the special meeting and any adjournment of the special meeting. However, if a new record date is set for the adjourned special meeting, then a new quorum will have to be established.

Required Vote

For us to complete the merger, stockholders holding at least a majority of the shares of Embarcadero common stock outstanding at the close of business on the record date must vote FOR the adoption of the merger agreement. The proposal to adjourn the meeting, if necessary, to solicit additional proxies requires the affirmative vote of a majority of the shares present and entitled to vote on the matter at the special meeting.

In order for your shares of Embarcadero common stock to be included in the vote, if you are a stockholder of record, you must cause your shares to be voted by returning the enclosed proxy, by submitting a proxy over the Internet or by telephone, as indicated on the proxy card, or by voting in person at the special meeting.

If your shares are held in street name by your broker, you should instruct your broker how to vote your shares using the instructions provided by your broker. If you have not received such voting instructions or require further information regarding such voting instructions, contact your broker and it can give you directions on how to vote your shares. A broker non-vote generally occurs when a broker, bank or other nominee holding shares on your behalf does not vote on a proposal because the nominee has not received your voting instructions and lacks discretionary power to vote the shares. Broker non-votes and abstentions will not count as votes cast on a proposal, but will count for the purpose of determining whether a quorum is present.

Broker non-votes and abstentions will have the same effect as a vote against the adoption of the merger agreement. Abstentions will also have the same effect as a vote against the adjournment of the meeting. Broker non-votes will not have an effect on the vote with respect to the adjournment.

Voting by Directors and Executive Officers

As of May 1, 2007, the record date, the directors and executive officers of Embarcadero held and are entitled to vote, in the aggregate, 305,955 shares of Embarcadero common stock, representing approximately 1.17% of the outstanding shares of Embarcadero common stock. Stephen Wong, Embarcadero s former Chairman, President and Chief Executive Officer held, as of the record date, and is entitled to vote 4,385,000 shares of Embarcadero common stock, representing approximately 16.78% of the outstanding shares of Embarcadero common stock. Pursuant to the terms of the voting agreements described elsewhere in this proxy statement, each of Stephen Wong, Raj Sabhlok, Embarcadero s Senior Vice President of Operations, Michael Shahbazian, Embarcadero s Chief Financial Officer, Wayne Williams, Embarcadero s Chief Technology Officer and Scott Schoonover, Embarcadero s Vice President, Worldwide Sales, has agreed to vote, or cause to be voted or consented, all of his shares of Embarcadero common stock currently held or subsequently acquired, if any, in favor of the adoption of the merger agreement. As of the record date, the voting agreements executed by Messrs. Wong, Sabhlok, Shahbazian, Williams and Schoonover cover an aggregate of 4,775,955 shares of Embarcadero common stock, representing approximately 18.27% of the outstanding shares of Embarcadero common stock. In addition to the shares Messrs. Wong, Sabhlok, Shahbazian, Williams and Schoonover have agreed to vote in favor of adoption of the merger agreement pursuant to the voting agreements, the affirmative vote of holders of Embarcadero common stock representing at least 8,291,531 shares of Embarcadero common stock, or approximately 31.73% of the outstanding shares of Embarcadero common stock, will be required to adopt the merger agreement.

Proxies; Revocation

If you submit a signed proxy, or submit a proxy over the Internet or by telephone as indicated on the proxy card, your shares will be voted at the special meeting in accordance with the instructions given. If no instructions are indicated on your signed proxy card, your shares will be voted FOR the adoption of the merger agreement and FOR adjournment of the meeting, if necessary, to solicit additional proxies if there are insufficient votes at the time of the meeting to adopt the merger agreement, and in accordance with the recommendations of the board of directors on any other matters properly brought before the meeting for a vote.

You may revoke your proxy at any time before the vote is taken at the special meeting. To revoke your proxy, you must either advise our Corporate Secretary in writing, deliver a new proxy or submit another proxy over the Internet or by telephone, in each case dated after the date of the proxy you wish to revoke, or attend the special meeting and vote your shares in person. Attendance at the special meeting will not by itself constitute revocation of a proxy.

If you have instructed your broker to vote your shares, the above-described options for revoking your proxy do not apply and instead you must follow the directions provided by your broker to change these instructions.

Embarcadero does not expect that any matter other than the proposal to adopt the merger agreement will be brought before the special meeting (other than adjournment of the meeting, if necessary, to solicit additional proxies if there are insufficient votes at the time of the meeting to adopt the merger agreement). If, however, another matter is properly presented at the special meeting or any adjournment or postponement of the special meeting, the persons appointed as proxies will vote the shares in accordance with the recommendation of our board of directors.

Proxy Solicitation; Expenses of Proxy Solicitation

Embarcadero will pay the cost of this proxy solicitation. In addition to soliciting proxies by mail, directors, officers and employees of Embarcadero may solicit proxies personally and by telephone, facsimile, Internet or other electronic means of communication. These persons will not receive additional or special compensation for such solicitation services. Embarcadero will, upon request, reimburse brokers, banks and other nominees for their expenses in sending proxy materials to their customers who are beneficial owners and obtaining their voting instructions.

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Adjournments

Any adjournment may be made without notice by an announcement made at the special meeting by the chairman of the meeting, subject to applicable law. If persons named as proxies by you are asked to vote for one or more adjournments of the meeting for matters incidental to the conduct of the meeting, such persons will have the authority to vote in accordance with the recommendation of our board of directors on such matters. However, if persons named as proxies by you are asked to vote for one or more adjournments of the meeting to solicit additional proxies if there are insufficient votes at the time of the meeting to adopt the merger agreement, such persons will only have the authority to vote on such matter as instructed by you or your proxy, or, if no instructions are provided on your signed proxy card, in favor of such adjournment. Any adjournment of the special meeting for the purpose of soliciting additional proxies will allow Embarcadero stockholders who have already sent in their proxies to revoke them at any time prior to their use.

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PROPOSAL NO. 1 THE MERGER AGREEMENT

Effective Time

The merger will become effective at the effective time. The term effective time means the date and time at which the certificate of merger is filed with the Delaware Secretary of State, or at a later date and time agreed upon by us, EMBT Merger Corp. and Parent and specified in the certificate of merger. Embarcadero intends that the filing of the certificate of merger will occur as soon as practicable after satisfaction or waiver of the conditions to the merger described in the merger agreement.

Structure

Subject to the terms and conditions of the merger agreement and in accordance with the General Corporation Law of the State of Delaware, at the effective time of the merger, EMBT Merger Corp., a wholly-owned subsidiary of Parent and a party to the merger agreement, will merge with and into Embarcadero, and each issued and outstanding share of common stock of EMBT Merger Corp. will be converted into one share of common stock of the surviving corporation. Embarcadero will survive the merger as a wholly-owned subsidiary of Parent. The merger will have the effects described in the merger agreement and in accordance with the General Corporation Law of the State of Delaware.

Treatment of Stock and Options

If the merger is completed, each share of Embarcadero common stock issued and outstanding immediately before the effective time of the merger will be cancelled and converted automatically into the right to receive $7.20 in cash, without interest, except for shares held by us or any of our subsidiaries, or shares held by Parent, which shares will be cancelled without payment, and shares held by stockholders who are entitled to and who properly exercise and perfect appraisal rights in compliance with all of the required procedures under Delaware law.

Immediately prior to the effective time, each outstanding option to purchase shares of Embarcadero common stock, including unvested options, will accelerate and become fully vested. At the effective time, any options having an exercise price equal to or greater than $7.20 per share will be cancelled without payment, and any options having an exercise price less than $7.20 per share will entitle the holder of such options to receive an amount in cash equal to the product of (i) the total number of shares of Embarcadero common stock subject to the option, multiplied by (ii) the excess of $7.20 over the exercise price per share of Embarcadero common stock underlying such option, less any applicable withholding taxes. Each of the Company s equity incentive plans will be terminated upon completion of the merger, and Embarcadero has agreed to ensure that no participant in any of the Company s equity incentive plans will have any right to acquire any equity securities of the Company, the surviving corporation or any of its respective subsidiaries after completion of the merger.

Treatment of Restricted Stock

If any share of restricted Embarcadero common stock outstanding immediately prior to the effective time of the merger is unvested or subject to a repurchase option, then, effective immediately prior to the completion of the merger, any such share of restricted common stock will accelerate and become fully vested and any repurchase option will lapse. Thereafter, each such share will be converted into the right to receive $7.20 in cash, without interest.

Exchange and Payment Procedures

At the effective time of the merger, Parent will deposit an amount of cash sufficient to pay the merger consideration to each holder of shares of Embarcadero common stock with Mellon Investor Services LLC, which we refer to as the paying agent. As soon as practicable after the effective time of the merger, the paying agent will mail a letter of transmittal and instructions to each holder of Embarcadero common stock. The letter of

transmittal and instructions will tell the stockholders how to surrender their Embarcadero common stock certificates in exchange for the merger consideration.

Stockholders will not be entitled to receive the merger consideration until they surrender their Embarcadero common stock certificate or certificates to the paying agent, together with a duly completed and executed letter of transmittal and any other documents as the paying agent may reasonably require. The merger consideration may be paid to a person other than the person in whose name the corresponding certificate is registered if the certificate is presented to the paying agent, accompanied by documents evidencing such transfer of ownership and the payment of transfer taxes.

No interest will be paid or will accrue on the cash payable upon surrender of the certificates. Each of the paying agent and the surviving corporation will be entitled to deduct and withhold any applicable taxes from the merger consideration otherwise payable pursuant to the merger agreement to any holder of common stock of Embarcadero and holders of Embarcadero stock options and pay such withholding amount over to the appropriate taxing authority.

After the effective time of the merger, our share transfer books will be closed, and there will be no further registration of transfers of outstanding shares of Embarcadero common stock. If, after the effective time of the merger, certificates are presented to the surviving corporation for any reason, they will be cancelled and exchanged for the merger consideration, subject to the applicable Delaware law.

None of Parent, the surviving corporation or EMBT Merger Corp. will be liable to any holder of shares of Common Stock of Embarcadero for any part of the merger consideration delivered to a public official pursuant to any applicable abandoned property, escheat or similar law. Any portion of the merger consideration deposited with the paying agent that remains unclaimed by holders of any such shares for two years after the effective time of the merger or at such earlier date immediately before the time at which such amounts would otherwise escheat to, or become property of, any governmental entity, to the extent permitted by applicable law, will become property of the surviving corporation.

If any stockholder has lost a certificate, or if it has been stolen or destroyed, then the stockholder will be required to make an affidavit of that fact, and may be required to post a bond in a reasonable amount or execute an indemnity agreement, at the reasonable direction of Parent or the surviving corporation, before the stockholder will be entitled to receive the merger consideration.

Certificate of Incorporation and Bylaws

At the effective time of the merger, the certificate of incorporation of Embarcadero will be amended to read as set forth in Exhibit B to the merger agreement, which is attached to this proxy statement as *Annex A*, and as so amended will be the certificate of incorporation of the surviving corporation. In addition, at the effective time of the merger, the bylaws of the surviving corporation will read as set forth in Exhibit C to the merger agreement. The name of the surviving corporation will continue to be Embarcadero Technologies, Inc.

Directors and Officers

At the effective time of the merger, the directors of EMBT Merger Corp. will become the directors of the surviving corporation. Raj Sabhlok, our current Senior Vice President of Operations, will become Chief Executive Officer of the surviving corporation effective upon completion of the merger. We expect that Scott Schoonover, Greg Davoll, Greg Keller and Wayne Williams, our Vice President, Worldwide Sales, Vice President, Marketing, Vice President, Product Management, and Chief Technology Officer respectively, will enter into employment agreements with the surviving corporation prior to the completion of the merger and that each will continue to serve in such positions with the surviving corporation following the merger. We also expect that Michael Shahbazian, our Chief Financial Officer, will resign following the merger and will not continue to serve with the surviving corporation. Upon the termination of Mr. Shahbazian s employment, he will be entitled to certain benefits. See The Merger Interests of Certain Persons in the Merger Change in Control Benefits on page 37.

Representations and Warranties

The merger agreement contains representations and warranties that Embarcadero, Parent and EMBT Merger Corp. have made to each other as of specific dates. The assertions embodied in those representations and warranties were made for purposes of the merger agreement, a copy of which is attached hereto as *Annex A* and which is incorporated by reference into this proxy statement. The representations and warranties in the merger agreement are complicated and not easily summarized. You are urged to read carefully and in their entirety the sections of the merger agreement entitled Representations and Warranties of the Company and Representations and Warranties of Parent and Merger Sub in *Annex A* to this proxy statement.

The assertions embodied in the representations and warranties are qualified by information in a confidential disclosure schedule that Embarcadero provided to Parent and EMBT Merger Corp. in connection with the signing of the merger agreement. While Embarcadero does not believe that the confidential disclosure schedule contains information that is required to be disclosed under applicable securities laws, other than information that has already been so disclosed, the disclosure schedule contains information that modifies, qualifies and creates exceptions to the representations and warranties set forth in the merger agreement. Accordingly, you should not rely on the representations and warranties as current characterizations of factual information about us, because they were made as of specific dates, may be intended merely as a risk allocation mechanism between Embarcadero, Parent and EMBT Merger Sub, and are modified in important part by the underlying disclosure schedule.

Our representations and warranties in the merger agreement relate to, among other things:

- our and our subsidiaries proper organization, good standing and corporate power to operate our businesses;
- our capitalization, including in particular the number of shares of Embarcadero common stock and stock options outstanding and the number of shares of Embarcadero common stock subject to a repurchase option by us;
- our certificate of incorporation and bylaws and those of our significant subsidiaries;
- our corporate power and authority to enter into the merger agreement and to complete the transactions contemplated by the merger agreement;
- the absence of any violation of or conflict with our organizational documents, applicable law or certain agreements as a result of entering into the merger agreement and completing the merger;
- required consents and approvals of governmental entities in connection with the merger;
- the vote required by our stockholders in connection with the approval of the merger agreement and merger;
- our SEC filings, the financial statements contained in those filings and our internal controls;
- the accuracy and completeness of information Embarcadero has supplied for inclusion in this proxy statement;

the absence of liabilities, other than (i) as set forth on our December 31, 2005 balance sheet, (ii) ordinary course liabilities, (iii) liabilities incurred in connection with the merger and (iv) liabilities that would not have a material adverse effect;

the absence of certain changes and events since December 31, 2005, including the absence of a material adverse effect;

employment and labor matters affecting us, including matters relating to our employee benefit plans;

real property owned and leased by Embarcadero and its subsidiaries and title to assets;

our intellectual property;

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taxes, environmental matters and certain specified types of contracts;

the absence of litigation or outstanding court orders against us;

our compliance with applicable statutes, laws, rules, orders and regulations;

our possession of all licenses and permits necessary to operate our properties and carry on our business;

our insurance policies;

receipt by the board of directors of an opinion from Morgan Stanley & Co. Incorporated;

inapplicability of state anti-takeover laws to the merger;

the absence of undisclosed broker s fees; and

export control laws.

For the purposes of the merger agreement, material adverse effect means any change, event, violation, inaccuracy, effect or circumstance that, individually or in the aggregate, is or could reasonably be expected to be materially adverse to our business, operations, properties, financial condition, assets or liabilities or prevent or materially delay the performance by us of any of our obligations under the merger agreement or the completion of the merger or the other transactions contemplated by the merger agreement, or Parent s ability to vote, receive dividends with respect to or otherwise exercise ownership rights with respect to the stock of the surviving corporation.

Under the merger agreement, the following events do not constitute, or are not to be taken into account in determining whether there has been or will be, a material adverse effect :

any change in our stock price or trading volume or change in law or GAAP after the date of the merger agreement;

any failure by us to meet internal projections or published revenue or earnings projections for any period ending (or for which revenues or earnings are released) on or after the date of the merger agreement;

any effect that results from changes affecting the enterprise software industry or data management software market generally or the U.S. economy generally (to the extent any such changes do not have a disproportionate effect on us);

any effect that results from changes affecting general worldwide economic or capital market conditions (to the extent any such changes do not have a disproportionate effect on us);

any effect resulting from compliance with the terms and conditions of the merger agreement;

any effect caused by an impact to our relationships with our employees, customers, suppliers or partners directly attributable to the announcement or pendency of the merger; or any stockholder class action litigation arising from allegations of a breach of fiduciary duty relating to the merger agreement;

any failure by us to obtain any consent or approval required to be obtained under the merger agreement;

any declaration of war, military crisis or conflict, civil unrest, act of terrorism, or act of God;

any acts taken with the consent of Parent;

any (i) actions, claims, audits, arbitrations, mediations, investigations, proceedings or orders (in each case, whether threatened, pending or otherwise), (ii) penalties, sanctions, fines, injunctive relief, remediation or any other civil or criminal sanction (in each case, whether threatened, pending, deferred or otherwise, and whether financial or otherwise), or (iii) facts, circumstances, changes, effects, outcomes, results, occurrences and eventualities (whether or not known, contemplated or foreseeable, and whether financial or otherwise), in each case with respect to (i) through (iii), resulting from, relating to or arising out of: (1) our pending restatement of our historical financial statements for all periods

commencing on or after January 1, 2000 through the present (the ***Restatement***), (2) our failure to file in a timely manner our Quarterly Report on Form 10-Q for the fiscal quarter ended September 30, 2006 and our Annual Report on Form 10-K for the fiscal year ended December 31, 2006, or (3) our historical stock-based compensation practices, including with respect to the grant of stock options and the purchase of our stock by employees, the recording of, accounting for and disclosure relating to the stock option grants and our stock purchases by employees, remedies determined by our Special Committee of our board of directors or our board of directors relating to our investigation of such stock-based compensation or in connection with the Restatement, and our tax practices with respect to such compensation practices, including the grant of stock options and the purchase of our stock by employees; or

any change in our independent registered public accounting firm.

The merger agreement also contains representations and warranties made by Parent and EMBT Merger Corp. that are subject, in some cases, to specified exceptions and qualifications. The representations and warranties of each of Parent and EMBT Merger Corp. relate to, among other things:

- its proper organization, good standing and corporate power to operate its businesses;
- its corporate power and authority to enter into the merger agreement and to complete the transactions contemplated by the merger agreement;
- the absence of any violation of or conflict with its organizational documents, applicable law or certain agreements as a result of entering into the merger agreement and completing the merger;
- required consents and approvals of governmental entities as a result of the merger;
- the accuracy and completeness of information it has supplied for inclusion in this proxy statement;
- the operations of EMBT Merger Corp.;
- the absence of litigation or outstanding court orders against it;
- the debt financing letter and the equity financing letter received by TCB, Parent and EMBT Merger Corp., including that each of the debt financing letter and the equity financing letter is in full force and effect and is a legal, valid and binding obligation of Parent, EMBT Merger Corp. and, to the knowledge of Parent, the other parties to these agreements;
- the absence of undisclosed broker s fees;
- EMB Holding Corp. and EMBT Merger Corp. not being interested stockholders of us; and
- delivery by EMB Holding Corp. to us of the limited guarantee of Thoma Cressey Fund VIII, L.P., an affiliated fund of TCB.

The representations and warranties of each of the parties to the merger agreement will expire upon completion of the merger.

Conduct of Our Business Pending the Merger

Under the merger agreement, we have agreed that, subject to certain exceptions or unless Parent gives its prior written consent, between April 5, 2007 and the completion of the merger, we and our subsidiaries will:

- maintain our existence in good standing under applicable law;
- conduct our business and operations only in the ordinary and usual course of business and in a manner consistent with prior practice; and
- use commercially reasonable efforts to (i) preserve intact our assets, properties, contracts or other legally binding understandings, licenses and business organizations, (ii) keep available the services of our current officers and key employees and (iii) preserve our current relationships with customers, suppliers, distributors, lessors, licensors, licensees, creditors, employees, contractors and other persons with which we or any of our subsidiaries have business relations.

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We have also agreed that during the same time period, and again subject to certain exceptions or unless Parent gives its prior written consent, we and our subsidiaries will not:

- declare, set aside, make or pay any dividends or other distributions in respect of any of our capital stock;
- adjust, split, combine or reclassify any of our capital stock or issue or authorize any other securities in lieu of or in substitution for shares of our capital stock;
- repurchase, redeem or otherwise acquire any shares of our capital stock or any of our stock rights (except pursuant to restricted stock award agreements outstanding on the date of the merger agreement);
- issue, deliver or sell, pledge or encumber any shares of our capital stock or any of our stock rights (other than the issuance of shares of Embarcadero common stock upon the exercise of our stock options outstanding as of the date of the merger agreement or in the ordinary course of business to our employees and directors, so long as the amount of restricted stock issued does not exceed 115,000 shares and the number of shares subject to options granted does not exceed 100,000 shares);
- take any action that would reasonably be expected to impair our ability to complete or materially delay the merger in accordance with the terms of the merger agreement;
- amend our certificate of incorporation or our bylaws or equivalent organizational documents of our subsidiaries;
- become liable for any indebtedness for borrowed money, other than short-term borrowings under existing lines of credit incurred in the ordinary course of business, or otherwise become liable for the obligations of any other person;
- make any loans, advances or capital contributions to or investments in any other person (other than loans, advances, capital contributions or investments less than $250,000 made in the ordinary course of business);
- merge or consolidate with any other entity or adopt a plan of complete or partial liquidation, dissolution, recapitalization or other reorganization;
- change our tax accounting methods, principles or practices, except as required by GAAP or applicable laws;
- alter, amend or create any obligations with respect to compensation, severance, benefits, change of control payments or any other payments to our present or former employees, directors or affiliates, other than alterations or amendments (i) made with respect to non-officers and non-directors in the ordinary course of business that, in the aggregate, do not result in a material increase in benefits or compensation expense to us, (ii) as expressly contemplated by the merger agreement with respect to our stock options and restricted stock or (iii) required under applicable laws;
- hire any new employees other than non-officer employees in the ordinary course of business;

sell, license, mortgage, transfer, lease, pledge or otherwise subject to any encumbrance or otherwise dispose of any material properties or assets, other than in the ordinary course of business;

acquire any material business, assets or securities other than in the ordinary course of business;

make any tax election not consistent with prior practice or settle or compromise any income tax liability or fail to file any material tax return when due or fail to cause such tax returns when filed to be complete and accurate in all material respects;

incur (or commit to incur) any capital expenditures, or any obligations or liabilities in connection with such capital expenditures that, individually or in the aggregate, are in excess of $250,000, except in the ordinary course of business;

pay, discharge, settle or satisfy any liabilities, other than the payment, discharge or satisfaction of liabilities in the ordinary course of business as required by any applicable law, as accrued for in our financial statements or as required by the terms of any of our contracts in effect on the date of the merger agreement;

waive, release, grant or transfer any right of material value, other than in the ordinary course of business, or agree to modify in any material adverse respect any material confidentiality or similar agreement to which we are a party;

enter into, modify, amend or terminate (i) any contract which if so entered into, modified, amended or terminated could likely have a material adverse effect on us, materially impair our ability to perform our obligations under the merger agreement or prevent or materially delay the completion of the transactions contemplated by the merger agreement or (ii) any of our material contracts, except in the ordinary course of business;

terminate any officer or key employee of Embarcadero other than for good reason or for reasonable cause;

maintain insurance at less than current levels or otherwise in a manner inconsistent with past practice;

except as required by GAAP, revalue any of our material assets or make any changes in accounting methods, principles or practices;

enter into any transaction that could give rise to a disclosure obligation as a reportable transaction under Section 6011 of the Internal Revenue Code of 1986, as amended, and the regulations thereunder;

engage in any transaction with, or enter into any agreement with, any of our affiliates or any other person covered by Item 404 of Regulation S-K promulgated under the Securities Exchange Act of 1934, as amended, that would be required to be disclosed under such Item 404;

compromise or settle any suit, claim, action, investigation or proceeding directly relating to or affecting our intellectual property or having a value or in an amount in excess of $100,000;

effectuate a plant closing or mass layoff, as those terms are defined in the U.S. Worker Adjustment and Retraining Notification Act, affecting any site of employment, facility, operating unit or employee of Embarcadero;

grant any material refunds, credits, rebates or other allowances by us to any end user, customer, reseller or distributor, other than in the ordinary course of business;

abandon or allow to lapse or expire any registration or application for our material intellectual property; or

agree to take any of the actions described above.

Financing

Parent and EMBT Merger Corp. have agreed to use commercially reasonable efforts to fully satisfy on a timely basis all the terms, conditions, representations and warranties contained in the debt financing letter and the equity financing letter relating to the financing for the merger. Parent has also agreed to keep us informed regarding the status of the financing. Parent will notify us promptly, and in any event within two business days, if at any time before completion of the merger (i) either the debt financing letter or the equity financing letter with respect to the financing of the merger should expire or be terminated for any reason or (ii) any financing source that is a party to the debt financing letter or the equity financing letter notifies Parent or EMBT Merger Corp. that such source no longer intends to either provide or underwrite financing to EMBT Merger Corp. on the terms set forth in such financing letter. In the event any portion of the debt financing becomes unavailable on the

terms and conditions contemplated in the debt financing letter, Parent and EMBT Merger Corp. will use commercially reasonable efforts to arrange to obtain alternative debt financing on terms Parent determines reasonably and in good faith are no less favorable to EMBT Merger Corp. We have agreed to use commercially reasonable efforts to cooperate, and to cause our subsidiaries and representatives to cooperate, with Parent and its representatives in connection with the financing.

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No Solicitation of Transactions

We have agreed that so long as the merger agreement remains in effect, we (and our affiliates, officers, directors and agents) will not:

- solicit, initiate or intentionally encourage the submission of an alternative proposal (as defined below); or
- participate in any discussions or negotiations regarding, or furnish any non-public information or data about us to any third party (other than Parent and EMBT Merger Corp.) for the purpose of knowingly facilitating, inducing or encouraging any proposal that is, or may reasonably be expected to lead to, an alternative proposal.

The above restrictions on solicitation contained in the merger agreement do not prevent our board of directors from, prior to the special meeting of stockholders, complying with Rules 14-d(9) and 14-e(2) under the Securities Exchange Act of 1934, as amended; or engaging in discussions, participating in negotiations with or furnishing non-public information to, a third party making an unsolicited, *bona fide* alternative proposal if our board of directors determines in good faith (after consulting with an outside financial advisor) that the acquisition proposal is, or presents a reasonable possibility of resulting in, a superior proposal. Furthermore, we may enter into discussions or negotiations with, or furnish non-public information to, a third party only if the following conditions are satisfied:

- we receive from the third party an executed confidentiality agreement having terms and conditions no less favorable to us than the Confidentiality Agreement, dated July 13, 2006, between TCB and us;
- promptly upon furnishing any non-public information to the third party, we furnish this non-public information to Parent, to the extent not previously provided; and
- we do not provide any non-public information or other confidential information that would result in competitive harm or detriment to our ability to effectively compete in any of our businesses.

In addition to the restrictions on solicitation described above, we are required to promptly notify Parent of:

- receipt of any alternative proposal, any request for information (including non-public information) by any third party that has made an alternative proposal, receipt of an amendment to a previously disclosed alternative proposal, and any determination that an alternative proposal constitutes a superior proposal;
- the identity of the person or group making any alternative proposal; and
- the material terms and conditions of the alternative proposal.

In addition, if we receive a superior proposal, we are required, during the two business days following notice of such proposal to Parent, to negotiate in good faith with Parent to revise the merger agreement if and to the extent our board of directors determines that such negotiations would be consistent with its fiduciary duties.

Our board of directors may, in response to a superior proposal by a third party, withdraw or modify its approval or recommendation to our stockholders to vote in favor of the adoption of the merger agreement, if both of the following conditions are met:

a superior proposal has been made and has not been withdrawn; and

our board of directors has determined in good faith, after consulting its outside legal advisors, that there is a reasonable basis to conclude that the board s failure to effect a change of recommendation in light of the superior proposal would result in a reasonable possibility of a breach of its fiduciary duties to our stockholders under applicable law.

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Our board of directors may accept and enter into an agreement for a superior proposal and terminate the merger agreement immediately prior to, or immediately after, its acceptance of the superior proposal if all of the following conditions are met:

- a superior proposal has been made and has not been withdrawn;
- we have not taken any action with respect to the superior proposal for three business days after delivery of a written notice to Parent setting forth our intention to take such action;
- we shall have complied in all material respects with the provisions contained in the merger agreement relating to restrictions on solicitation; and
- in the event we terminate the merger agreement and enter into an alternative acquisition agreement for a superior proposal, we pay a termination fee of $5,000,000 to Parent or its designee concurrently with the termination of the merger agreement.

Under the merger agreement:

- The term alternative proposal means any written inquiry, proposal or offer from any third party relating to any merger, consolidation or other business combination involving the Company or any acquisition or similar transaction (including a tender offer or exchange offer) involving the purchase of:
  - 50% of our assets, or
  - 50% or more of our outstanding common stock.
- The term superior proposal means any *bona fide* written alternative proposal that our board of directors determines in good faith, after consultation with its outside financial advisors and outside counsel, contains terms that are more favorable to our stockholders than the transactions contemplated by the merger agreement.

Indemnification

Under the merger agreement, the surviving corporation will, for a period of six years after completion of the merger, indemnify, advance expenses to, and hold harmless all of our past and present officers and directors against acts or omissions occurring at or prior to the completion of merger, except that, in the case of advancement of expenses, any person to whom expenses are advanced will undertake to repay such expenses to the extent required by Delaware law if it is ultimately determined that such person is not entitled to indemnification. The surviving corporation will indemnify these individuals to the same extent and in the same manner as such persons were indemnified as of the date of the merger agreement by us pursuant to (i) the existing indemnification agreements between us and our directors and officers, (ii) the General Corporation Law of the State of Delaware and (iii) our certificate of incorporation and our bylaws for acts or omissions occurring at or prior to the completion of the merger.

The certificate of incorporation and bylaws of the surviving corporation will contain provisions with respect to indemnification, advancement of expenses and exculpation of our present and former directors and officers that are at least as favorable to such indemnified persons as those contained in our current certificate of incorporation and bylaws. The indemnification provisions in the surviving corporation s certificate of incorporation and bylaws will not be amended, repealed or otherwise modified in any manner adverse to our present and former directors and officers for a period of not less than six years following the completion of the merger, unless required by law.

As a condition to the consummation of the merger, Parent or the surviving corporation is required to obtain a directors and officers insurance policy that provides for coverage for acts or omissions of the existing directors and executive officers of the Company occurring prior to the effective time of the merger. The merger agreement further requires that Parent cause the surviving corporation to maintain this insurance policy in effect for a period of six years after the completion of the merger and for so long thereafter as any claim for insurance

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coverage asserted on or prior to the end of such six-year period has not been adjudicated. The merger agreement also provides that this directors and officers insurance policy must be in an amount and scope at least as favorable as our policies existing on the date of the merger agreement; provided, however, that the surviving corporation shall not be required to pay an annual premium for such insurance in excess of $640,000, but in such case shall purchase as much coverage as possible for such amount. The Company has received commitments for such insurance coverage and this coverage will be in place prior to the completion of the merger.

The obligations described above regarding directors and officers indemnification and insurance must be assumed by any successor of the surviving corporation or Parent as a result of any consolidation, merger or transfer of all or substantially all properties and assets of the surviving corporation or Parent.

Employee Benefits

Under the merger agreement, Parent has acknowledged that it expects that it will cause our employee benefit plans (other than option plans) in effect on the date of the merger agreement to remain in effect for one year after completion of the merger or, to the extent that such benefit plans are not continued, cause us to provide benefit plans that are substantially comparable, in the aggregate, to the benefit plans (other than option plans) in effect on the date of the merger agreement.

With respect to any benefit plans maintained by the surviving corporation after the merger in which any of our employees will participate, Parent has acknowledged that it expects to use commercially reasonable efforts to:

- recognize all service performed for us by our employees prior to the completion of the merger for eligibility and vesting purposes;
- waive any pre-existing condition exclusions (other than pre-existing conditions that, as of the completion of the merger, have not been satisfied under any of our benefit plans); and
- provide that any deductible, coinsurance or out-of-pocket expenses incurred on or before the completion of the merger during the plan year in which the merger occurs under any of our applicable benefit plans will be taken into account for purposes of satisfying applicable deductible, coinsurance and maximum out-of-pocket provisions after the completion of the merger under the applicable health plan that provides benefits to our employees.

Upon the completion of the merger, our stock option plans will terminate and the provisions in any other plan, program or arrangement providing for the issuance or grant of any other interest in respect of our capital stock will be canceled. Upon the completion of the merger, no participant in our option plans or other plans, programs or arrangements will have the right under these plans to acquire any equity securities of Embarcadero, the surviving corporation or any subsidiary thereof.

Agreement to Take Further Action and to Use Commercially Reasonable Efforts

Each party to the merger agreement has agreed to use commercially reasonable efforts to fulfill all conditions applicable to such party pursuant to the merger agreement and to expeditiously complete the merger and the other transactions contemplated by the merger agreement. Among other things, each party has committed to use such efforts to cooperate with each of the other parties to:

- take all commercially reasonable acts necessary to cause the conditions to completion of the merger (as described in the merger agreement) to be satisfied;
- obtain all necessary, proper or advisable actions or non-actions, waivers, consents, qualifications and approvals from governmental entities and make all necessary, proper or advisable registrations, filings and notices and take all reasonable steps as may be necessary to obtain an approval, waiver or exemption from any governmental entity (including under the HSR Act);

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obtain all consents and approvals from non-governmental third parties listed on a schedule to the merger agreement;

as promptly as practicable, (i) make any required submissions under the HSR Act and any other antitrust laws which we or Parent determine should be made in connection with the merger and related transactions and (ii) determine whether any filings are required to be or should be made, or consents, approvals, permits, authorizations or waivers are required to be or should be obtained from other federal, state or foreign governmental authorities or from other third parties in connection with the completion of the transactions contemplated by the merger agreement and (iii) furnish to each other information required in connection with any such filings, and seek to obtain any such consents, approvals, permits, authorizations or waivers;

promptly inform each other of the commencement or threatened commencement of any suit, claim, action, investigation or proceeding by any governmental entity with respect to the merger or any related transaction, and keep each other informed as to the status of any such suit, claim, action, investigation, proceeding or threat; and

promptly inform each other of any material communication concerning the HSR Act or other antitrust laws to or from any governmental entity regarding the merger, and assist each other in connection with any filing or other act taken to comply with the HSR Act and any other antitrust laws.

Conditions to the Merger

The obligations of all parties to complete the merger are subject to the following conditions:

the adoption of the merger agreement by the holders of a majority of the outstanding shares of Embarcadero common stock;

the absence of any law or order that prevents or prohibits completion of the merger;

the receipt from all governmental authorities of all consents, approvals and authorizations legally required to be obtained to complete the merger;

the expiration or termination of applicable waiting periods under applicable U.S. and non-U.S. antitrust laws, and the receipt of any approvals required thereunder; and

the purchase by Parent or the surviving corporation of a directors and officers insurance policy that provides coverage for acts and omissions of our existing directors and executive officers occurring prior to the effective time of the merger.

The obligations of Parent and EMBT Merger Corp. to complete the merger are subject to the following additional conditions:

the truth and correctness of our representations and warranties without reference to any materiality qualification, such that the aggregate effect of any inaccuracies in such representations and warranties will not have a material adverse effect on us as of the date of the closing (or as of the date made in the case of representations and warranties made as of a specific date);

the performance or compliance, in all material respects, by us with all agreements and covenants required by the merger agreement to be performed or complied with on or prior to the completion of the merger;

our delivery to Parent of a certificate with respect to the satisfaction of the foregoing conditions relating to representations, warranties, agreements and covenants;

our delivery to Parent of a certificate to the effect that we are not a U.S. real property holding company;

the absence of any occurrence that has had a material adverse effect on us; and

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- the filing by us with the SEC of (i) our Quarterly Report on Form 10-Q for the quarter ended September 30, 2006 and (ii) our Annual Report on Form 10-K for the year ended December 31, 2006, which condition has been met.

The obligations of the Company to complete the merger are subject to the following additional conditions:

- the truth and correctness of Parent s representations and warranties without reference to any materiality qualification, such that the aggregate effect of any inaccuracies in such representations and warranties will not have a material adverse effect on Parent as of the date of the closing (or as of the date made in the case of representations and warranties made as of a specific date);
- the performance or compliance, in all material respects, by Parent with all agreements and covenants required by the merger agreement to be performed or complied with on or prior to the completion of the merger;
- the delivery by Parent of a certificate with respect to the satisfaction of the foregoing conditions relating to representations, warranties, agreements and covenants; and
- the receipt by Parent of a signed solvency opinion addressed to our board of directors.

Termination

The merger agreement may be terminated and the merger may be abandoned at any time before the completion of the merger, whether or not stockholder approval has been obtained:

- by the mutual written consent of the parties;
- by Parent or Embarcadero (i) if a governmental entity issues an order or takes any other action to permanently enjoin the merger, (ii) if Embarcadero s stockholders fail to adopt the merger agreement (giving effect to any adjournment or postponement of the special meeting), (iii) if the merger shall not have been consummated by July 16, 2007 (the Outside Date), or (iv) if the other party breaches any of its representations or warranties in the merger agreement such that the aggregate effect of such breaches has a material adverse effect, or the other party breaches, in a material respect, its covenants or agreements in the merger agreement, and, in each case, such breach is not, or is not reasonably capable of being, cured by the Outside Date; or
- by Parent (i) if the board of directors of Embarcadero withdraws or adversely modifies its approvals or recommendations of the merger, (ii) the board of directors of Embarcadero fails to reaffirm its approvals or recommendations of the merger or the merger agreement within ten business days after Parent requests that it do so following the public announcement of an alternative proposal, (iii) the board of directors of Embarcadero (A) recommends that our stockholders approve or accept an alternative proposal or (B) determines to accept a superior proposal, (iv) Embarcadero breaches its covenant to convene the special meeting of its stockholders or breaches its covenant not to solicit an alternative proposal, or (v) a third party commences a tender or exchange offer or other alternative proposal and Embarcadero does not send a statement to its stockholders recommending rejection of such offer within ten business days after such offer is first published, sent or given.

Embarcadero may also terminate the merger agreement in the event it approves or accepts a superior proposal and pays the termination fee to Parent described below.

Fees and Expenses

Embarcadero has agreed to pay Parent or such other persons designated in writing by Parent a termination fee in the amount of $5,000,000 if:

Embarcadero terminates the merger agreement in connection with an acquisition agreement for a superior proposal; or

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Parent terminates the merger agreement for any of the reasons set forth in the third bullet point above under Termination.
In addition, if Embarcadero or Parent terminate the merger agreement because:

the stockholders fail to adopt the merger agreement at the special meeting; or

the merger has not been completed before July 16, 2007;
then Embarcadero will be obligated to pay Parent or its designee the termination fee of $5,000,000 if Embarcadero enters into an acquisition agreement with a third party within six months after termination of the merger agreement.

If all of the conditions to Parent s obligation to complete the merger have been satisfied and Parent fails to close the transactions contemplated by the merger agreement, including the merger, Embarcadero may terminate the merger agreement and Parent will be obligated to pay Embarcadero a termination fee in the amount of $5,000,000 within five business days of notice of termination.

Amendment and Waiver

The merger agreement may be amended by the parties in writing by action of their respective boards of directors at any time before or after the merger agreement has been adopted by our stockholders and prior to the filing of the certificate of merger with the Secretary of State of the State of Delaware. However, after the merger agreement has been adopted by our stockholders, no amendment, modification or supplement will be made to the merger agreement which by law requires the further approval of our stockholders without such further approval. The merger agreement also provides that, at any time prior to the completion of the merger, each of Embarcadero, Parent and EMBT Merger Corp. may extend the time for the performance of any of the obligations or other acts of the other parties, waive any inaccuracies in the representations and warranties of the other parties contained in the merger agreement or in any document delivered pursuant to the merger agreement or waive compliance with any of the agreements or conditions of the other parties contained in the merger agreement.

OTHER AGREEMENTS

Voting Agreements

On April 5, 2007, each of Stephen Wong, Raj Sabhlok, Michael Shahbazian, Wayne Williams and Scott Schoonover entered into voting agreements with us and Parent. The summary of the voting agreements below and elsewhere in this proxy statement may not contain all of the material terms of the voting agreements and is qualified by the full text of the voting agreements. We encourage you to read carefully the form of voting agreement in its entirety, a copy of which is attached as Exhibit A to the merger agreement, which is attached to this proxy statement as *Annex A* and incorporated by reference into this document.

Voting and Exclusivity

Each of Messrs. Wong, Sabhlok, Shahbazian, Williams and Schoonover has agreed to vote or consent all of his shares of Embarcadero common stock and those acquired after the date of the agreements, if any, (i) in favor of adoption of the merger agreement and (ii) against any proposal for any recapitalization, merger, sale of assets or other business combination (other than the merger) between us and any person or entity other than Parent.

In addition, each of Messrs. Wong, Sabhlok, Shahbazian, Williams and Schoonover has agreed that prior to the completion of the merger he will not directly or indirectly (i) sell, transfer, exchange or otherwise dispose of his shares of Embarcadero common stock and those acquired after the date of the agreements, if any, (ii) grant any proxies or powers of attorney, deposit any of his shares of Embarcadero common stock into a voting trust or

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enter into a voting agreement with respect to any of such shares or (iii) take any action that could reasonably be expected to have the effect of preventing or disabling him from performing his obligations under his voting agreement at any time prior to the closing of the merger. Each of Messrs. Wong, Sabhlok, Shahbazian, Williams and Schoonover is permitted, however, to transfer his shares of Company common stock and those acquired after the date of his agreement, if any, to any family member or trust for the benefit of any family member so long as the transferee agrees to be bound by the terms of the voting agreement, or to any charity so long as such transfers do not exceed 125,000 shares in the aggregate.

Termination

The voting agreements will automatically terminate upon the earlier to occur of the completion of the merger, the termination of the merger agreement, or the date on which the board of directors withdraws or modifies, in a manner adverse to Parent or EMBT Merger Corp., its approval or recommendation of the merger.

Employment Agreements

On April 5, 2007, in connection with execution of the merger agreement, Raj Sabhlok entered into a new employment agreement with us that will become effective upon completion of the merger. We expect that each of Scott Schoonover, Greg Davoll, Greg Keller and Wayne Williams will also enter into employment agreements with us prior to the completion of the merger.

Employment Terms

The material terms of Mr. Sabhlok s employment agreement is as follows:

- Mr. Sabhlok will become the Chief Executive Officer of the surviving corporation upon completion of the merger.

- The new employment agreement will take effect upon the completion of the merger. The term of the new employment agreement for Mr. Sabhlok will continue until terminated upon Mr. Sabhlok s resignation, or upon the surviving corporation s termination of the agreement with or without cause.

- Mr. Sabhlok will be paid an annual base salary of $240,000. The base salary payable to Mr. Sabhlok is equal to the base salary payable to him by us prior to the merger, and will be subject to periodic reviews and possible increases. Any adjustments to the base salary payable to Mr. Sabhlok will be made by the board of directors of the surviving corporation or a committee of that board.

- Mr. Sabhlok will be entitled to discretionary cash bonuses based upon the achievement of cumulative quarterly or annual performance targets established by the board of directors of the surviving corporation.

- Mr. Sabhlok will be entitled to participate in customary employee benefits programs for our senior executives.

- Subject to his execution of an effective release of claims in favor of the surviving corporation and certain other parties, and his continued compliance with the restrictive covenants described below under Non-Competition Agreements, Mr. Sabhlok will have the right to receive the following severance payments and benefits in the event that he is involuntarily terminated by the surviving corporation without cause, as defined in the agreement, or if he resigns for good reason, as defined in his employment agreement:

  - base salary through the date of termination, any earned but unpaid portion of the annual performance bonus award and any employee benefits to which the executive may be entitled under any employee benefit plans, less any amounts owed to the surviving corporation by Mr. Sabhlok;

Mr. Sabhlok will have the right to receive a continuation of base salary for a period of 12 months following termination of employment.

Equity Terms

Under his employment agreement, Mr. Sabhlok will receive an equity incentive award in an amount equal to approximately 4.25% of the equity capital of EMBT Holdings, Inc., subject to various time-based and performance-based vesting provisions. We expect that any employment agreements with Messrs. Schoonover, Davoll, Keller and Williams will include equity incentive awards, in amounts to be determined.

In addition, upon the closing of the merger, Mr. Sabhlok will be entitled to invest $720,000 of the proceeds he receives from the merger in shares of capital stock of EMBT Holdings, Inc., representing approximately 1.28% of the equity capital of that company, on the same terms as the investment by TCB and the other Investors, bringing his aggregate equity interest in EMBT Holdings, Inc. up to approximately 5.53%.

Non-Competition Agreements

On April 5, 2007, Stephen Wong, entered into a non-competition agreement with us that will become effective upon completion of the merger. Pursuant to the non-competition agreement Mr. Wong agreed, among other things, that, for a specified term from the date of the agreement, he would not participate in any business within San Francisco county or any other geographical locale in California or in the rest of the world in which we conduct or actively propose to conduct business as of the date of the agreement, or any other jurisdiction from which the Company derives revenue as of the date of the agreement. For Mr. Wong, the term of the non-competition agreement is three years. We expect that each of Messrs. Sabhlok, Schoonover, Davoll, Keller and Williams will also enter into non-competition agreements prior to the completion of the merger.

Debt Financing Letter

On April 4, 2007, in connection with the negotiation of the transactions contemplated by the merger agreement, Thoma Cressey Bravo, Inc. and Wells Fargo Foothill, Inc. (***Wells Fargo***) entered into a commitment letter, pursuant to which Wells Fargo has committed, subject to certain conditions, to provide or cause to be provided debt financing through new senior secured credit facilities in the aggregate amount of $100,000,000, consisting of two term loans in the amounts of $65,000,000 and $25,000,000, respectively, and a $10,000,000 revolving credit facility upon the completion of the merger. See the copy of the debt commitment letter attached as Exhibit D to the merger agreement, which is attached as *Annex A* to this proxy statement.

Equity Financing Letter

On April 5, 2007, in connection with the negotiation of the transactions contemplated by the merger agreement, Parent and Thoma Cressey Fund VIII, L.P., entered into an equity commitment letter pursuant to which Thoma Cressey Fund VIII, L.P. has committed, subject to certain conditions, to provide or cause to be provided equity financing in an amount up to $52,000,000 in connection with the merger. See the copy of the equity commitment letter attached as Exhibit E to the merger agreement, which is attached as *Annex A* to this proxy statement.

Limited Guarantee

On April 5, 2007, in connection with the execution of the merger agreement, Parent delivered to us the limited guarantee of Thoma Cressey Fund VIII, L.P., pursuant to which Thoma Cressey Fund VIII, L.P. has agreed to be responsible for the performance by Parent and EMBT Merger Corp. of, and to cause Parent and EMBT Merger Corp. to perform, all of their obligations under the merger agreement that are to be performed by Parent or EMBT Merger Corp. on or prior to the closing of the merger; provided, however, that the maximum aggregate liability of Thoma Cressey Fund VIII, L.P., as guarantor, shall not in any event exceed the amount of $5,000,000.

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Confidentiality Agreement

In connection with the negotiation of the transactions contemplated by the merger agreement, we entered into a confidentiality agreement, dated July 13, 2006, with TCB. Pursuant to the confidentiality agreement, TCB agreed to keep non-public information provided by us confidential, and, for a period of two years, not to acquire any of our securities or the securities of our subsidiaries or influence or control our management or policies without our prior written consent.

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MARKET PRICE AND DIVIDEND DATA

Embarcadero common stock is traded on the NASDAQ Global Select Market, or NASDAQ, under the symbol EMBT. Embarcadero common stock began trading on NASDAQ on April 20, 2000, the date of our initial public offering. The following table presents, for the periods indicated, the high and low intra-day sale prices per share of Embarcadero common stock during the fiscal quarters indicated, as reported on NASDAQ.

Fiscal 2004	**High**	**Low**
First Quarter	$ 16.11	$ 12.01
Second Quarter	14.49	10.63
Third Quarter	12.45	5.79
Fourth Quarter	9.91	7.16
Fiscal 2005	**High**	**Low**
First Quarter	$ 9.41	$ 6.59
Second Quarter	6.72	4.85
Third Quarter	6.74	5.50
Fourth Quarter	8.17	6.45
Fiscal 2006	**High**	**Low**
First Quarter	$ 7.60	$ 6.42
Second Quarter	7.64	5.30
Third Quarter	8.22	5.48
Fourth Quarter	8.33	5.55
Fiscal 2007	**High**	**Low**
First Quarter	$ 7.09	$ 5.99
Second Quarter (through May 22, 2007)	7.10	6.75

If the merger is completed, Embarcadero common stock will be delisted from NASDAQ, there will be no further public market for shares of Embarcadero common stock, and each share of Embarcadero common stock will be cancelled and converted into the right to receive $7.20 in cash, without interest.

On April 5, 2007, the last trading day prior to the announcement of the merger, the closing price of Embarcadero common stock was $6.88 per share. On May 22, 2007, the most recent practicable date, the closing price of Embarcadero common stock was $7.04 per share.

We have never declared or paid any cash dividends on our capital stock. We currently intend to retain future earnings, if any, for development of our business and do not anticipate that we will declare or pay cash dividends on our capital stock in the foreseeable future.

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BENEFICIAL OWNERSHIP OF THE COMPANY S STOCK

The following table sets forth certain information regarding the beneficial ownership of Embarcadero common stock as of May 1, 2007 by each of the following:

each person or entity who is known by us to own beneficially 5% or more of our outstanding common stock;

each of our directors;

each of our current executive officers; and

all of our directors and executive officers as a group.

Beneficial ownership is determined in accordance with the rules of the Securities and Exchange Commission which generally attribute beneficial ownership of securities to persons who possess sole or shared voting power or investment power with respect to those securities. In computing the number of shares beneficially owned by a person and the percent of ownership of that person, shares of common stock subject to options or warrants held by that person which are currently exercisable or will become exercisable within 60 days after May 1, 2007, are deemed outstanding, while the shares are not deemed outstanding for purposes of computing percent ownership of any other person.

Name of Beneficial Holder	Number of Shares Beneficially Owned	Options Included in Beneficial Ownership	Percentage of Shares Owned
5% Beneficial Holders:			
Stephen R. Wong (1)	5,485,000	1,100,000	20.14%
AMVESCAP PLC (2)	3,508,830		13.43%
S Squared Technology, LLC (3)	2,953,400		11.30%
Chapman Capital L.L.C. (4)	2,422,856		9.27%
Wells Fargo & Company (5)	2,239,536		8.57%
Executive Officers and Directors:			
Raj P. Sabhlok	607,313	391,250	2.29%
Michael Shahbazian	154,892	75,000	*
Scott B. Schoonover			
Timothy C.K. Chou	92,496	92,496	*
Gary E. Haroian	45,829	45,829	*
Frank M. Polestra	102,496	92,496	*
Michael J. Roberts	90,830	90,830	*
Samuel T. Spadafora	67,496	67,496	*
All directors and executive officers as a group (8 persons)	1,161,352	855,397	4.30%

* Represents beneficial ownership of less than 1%.

(1) Represents shares known by us to be held by Stephen R. Wong as of December 31, 2005. The address for Mr. Wong is 765 Market Street, San Francisco, CA 94103.

(2) Based on information reported on a Schedule 13G/A filed with the SEC on February 14, 2007 and represents shares held by AMVESCAP PLC on behalf of itself and its subsidiaries as of December 31, 2006. The address of AMVESCAP PLC is 30 Finsbury Square, London EC2A 1AG, England.

(3) Based on information reported on Schedule 13G filed with the SEC on February 14, 2007 and represents shares held by S Squared Technology, LLC (***SST***) and its affiliate S Squared Technology Partners, L.P. (***SSTP***) as of December 31, 2006. Seymour L. Goldblatt is

the President of each of SST and SSTP and owns a majority of the interests in SST. Kenneth A. Goldblatt owns a majority of the interests in SSTP. The address for S Squared Technology, LLC is 515 Madison Avenue, New York, NY 10022.

(4) Based on information reported on a Schedule 13D/A filed with the SEC on April 6, 2007 and represents shares held by Chapman Capital L.L.C. and certain funds, of which Chapman Capital L.L.C. is the

investment manager and adviser as of April 6, 2007. Robert L. Chapman, Jr. is the Managing Member of Chapman Capital L.L.C. The address for Chapman Capital L.L.C. is Pacific Corporate Towers, 222 N. Sepulveda Blvd., El Segundo, California 90245.

(5) Based on information reported on a Schedule 13G/A filed with the SEC on February 7, 2007 and represents shares held by Wells Fargo & Company and certain of its subsidiaries, reported on a consolidated basis as of December 31, 2006. The address for Wells Fargo & Company is 420 Montgomery Street, San Francisco, CA 94104.

APPRAISAL RIGHTS

Under the General Corporation Law of the State of Delaware, or DGCL, you have the right to demand an appraisal of your shares in connection with the merger and to receive payment in cash for the fair value of your common stock of Embarcadero as determined by the Delaware Court of Chancery, together with a fair rate of interest, if any, as determined by the court, in lieu of the consideration you would otherwise be entitled to pursuant to the merger agreement. These rights are known as appraisal rights. Our stockholders electing to exercise appraisal rights must comply with the provisions of Section 262 of the DGCL in order to perfect their rights. Embarcadero will require strict compliance with the statutory procedures in connection with the merger.

The following is intended as a brief summary of the material provisions of the Delaware statutory procedures required to be followed by a stockholder in order to perfect appraisal rights. This summary, however, is not a complete statement of all applicable requirements and should be read in conjunction with Section 262 of the DGCL, the full text of which appears in *Annex C* to this proxy statement. Failure to precisely follow any of the statutory procedures set forth in Section 262 of the DGCL may result in a termination or waiver of your appraisal rights.

Section 262 requires that stockholders be notified that appraisal rights will be available not less than 20 days before the stockholders meeting to vote on the merger. A copy of Section 262 must be included with such notice. This proxy statement constitutes our notice to you of the availability of appraisal rights in connection with the merger in compliance with the requirements of Section 262. If you wish to consider exercising your appraisal rights, you should carefully review the text of Section 262 contained in *Annex C* since failure to timely and properly comply with the requirements of Section 262 will result in the loss of your appraisal rights under Delaware law.

If you elect to demand appraisal of your shares, you must satisfy each of the following conditions:

- You must deliver to Embarcadero a written demand for appraisal of your shares before the vote with respect to the merger is taken. This written demand for appraisal must be in addition to and separate from any proxy or vote abstaining from or voting against the adoption of the merger agreement. Voting against or failing to vote for the adoption of the merger agreement by itself does not constitute a demand for appraisal within the meaning of Section 262.

- You must not vote in favor of the adoption of the merger agreement. A vote in favor of the adoption of the merger agreement, by proxy, over the Internet, by telephone or in person, will constitute a waiver of your appraisal rights in respect of the shares so voted and will nullify any previously filed written demands for appraisal.

If you fail to comply with either of these conditions and the merger is completed, you will be entitled to receive the cash payment for your shares of Embarcadero common stock as provided for in the merger agreement, but you will have no appraisal rights with respect to your shares of Embarcadero common stock.

All demands for appraisal should be addressed to Embarcadero Technologies, Inc., 100 California Street, 12th Floor, San Francisco, California 94111, Attention: Chief Financial Officer, and must be delivered before the

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vote on the merger agreement is taken at the special meeting, and should be executed by, or on behalf of, the record holder of the shares of Embarcadero common stock. The demand must reasonably inform Embarcadero of the identity of the stockholder and the intention of the stockholder to demand appraisal of his, her or its shares.

To be effective, a demand for appraisal by a holder of Embarcadero common stock must be made by, or in the name of, such registered stockholder, fully and correctly, as the stockholder s name appears on his or her stock certificate(s). **Beneficial owners who do not also hold the shares of record may not directly make appraisal demands to Embarcadero. The beneficial holder must, in such cases, have the registered owner, such as a broker or other nominee, submit the required demand in respect of those shares**. If shares are owned of record in a fiduciary capacity, such as by a trustee, guardian or custodian, execution of a demand for appraisal should be made by or for the fiduciary; and if the shares are owned of record by more than one person, as in a joint tenancy or tenancy in common, the demand should be executed by or for all joint owners. An authorized agent, including an authorized agent for two or more joint owners, may execute the demand for appraisal for a stockholder of record; however, the agent must identify the record owner or owners and expressly disclose the fact that, in executing the demand, he or she is acting as agent for the record owner. A record owner, such as a broker, who holds shares as a nominee for others, may exercise his or her right of appraisal with respect to the shares held for one or more beneficial owners, while not exercising this right for other beneficial owners. In that case, the written demand should state the number of shares as to which appraisal is sought. Where no number of shares is expressly mentioned, the demand will be presumed to cover all shares held in the name of the record owner.

If you hold your shares of Embarcadero common stock in a brokerage account or in other nominee form and you wish to exercise appraisal rights, you should consult with your broker or the other nominee to determine the appropriate procedures for the making of a demand for appraisal by the nominee.

Within 10 days after the effective time of the merger, the surviving corporation must give written notice that the merger has become effective to each Embarcadero stockholder who has properly filed a written demand for appraisal and who did not vote in favor of the merger agreement. At any time within 60 days after the effective time, any stockholder who has demanded an appraisal has the right to withdraw the demand and to accept the cash payment specified by the merger agreement for his or her shares of Embarcadero common stock. Within 120 days after the effective date of the merger, the surviving corporation or any stockholder who has complied with Section 262 shall, upon written request to the surviving corporation, be entitled to receive a written statement setting forth the aggregate number of shares not voted in favor of the merger agreement and with respect to which demands for appraisal rights have been received and the aggregate number of holders of such shares. Within 120 days after the effective time, any stockholder who has complied with the requirements of Section 262 may file a petition in the Delaware Court of Chancery demanding a determination of the fair value of the shares held by all stockholders entitled to appraisal. Upon the filing of the petition by a stockholder, service of a copy of such petition shall be made upon the surviving corporation. The surviving corporation has no obligation to file, and has no intention to file, such a petition in the event there are dissenting stockholders. Accordingly, the failure of a stockholder to file such a petition within the period specified could nullify the stockholder s previously written demand for appraisal.

If a petition for appraisal is duly filed by a stockholder and a copy of the petition is delivered to the surviving corporation, the surviving corporation will then be obligated, within 20 days after receiving service of a copy of the petition, to provide the Chancery Court with a duly verified list containing the names and addresses of all stockholders who have demanded an appraisal of their shares and with whom agreements as to the value of their shares have not been reached by the surviving corporation. After notice to dissenting stockholders who demanded appraisal of their shares, the Chancery Court is empowered to conduct a hearing upon the petition, and to determine those stockholders who have complied with Section 262 and who have become entitled to the appraisal rights provided thereby. The Chancery Court may require the stockholders who have demanded payment for their shares to submit their stock certificates to the Register in Chancery for notation thereon of the pendency of the appraisal proceedings; and if any stockholder fails to comply with that direction, the Chancery Court may dismiss the proceedings as to that stockholder.

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After determination of the stockholders entitled to appraisal of their shares of the Company s common stock, the Chancery Court will appraise the shares, determining their fair value exclusive of any element of value arising from the accomplishment or expectation of the merger, together with a fair rate of interest, if any. When the value is determined, the Chancery Court will direct the payment of such value, with interest thereon accrued during the pendency of the proceeding, if the Chancery Court so determines, to the stockholders entitled to receive the same, upon surrender by such holders of the certificates representing those shares.

In determining fair value, the Chancery Court is required to take into account all relevant factors. **You should be aware that the fair value of your shares as determined under Section 262 could be more than, the same as, or less than the value that you are entitled to receive under the terms of the merger agreement**.

Costs of the appraisal proceeding (which do not include attorneys fees or the fees and expenses of experts) may be imposed upon the surviving corporation and the stockholders participating in the appraisal proceeding by the Chancery Court as the Chancery Court deems equitable in the circumstances. Upon the application of a stockholder, the Chancery Court may order all or a portion of the expenses incurred by any stockholder in connection with the appraisal proceeding, including, without limitation, reasonable attorneys fees and the fees and expenses of experts, to be charged pro rata against the value of all shares entitled to appraisal. Any stockholder who had demanded appraisal rights will not, after the effective time of the merger, be entitled to vote shares subject to that demand for any purpose or to receive payments of dividends or any other distribution with respect to those shares, other than with respect to payment as of a record date prior to the effective time; however, if no petition for appraisal is filed within 120 days after the effective time of the merger, or if the stockholder delivers a written withdrawal of his or her demand for appraisal and an acceptance of the terms of the merger within 60 days after the effective time of the merger, then the right of that stockholder to appraisal will cease and that stockholder will be entitled to receive the cash payment for shares of his, her or its Embarcadero common stock pursuant to the merger agreement. Any withdrawal of a demand for appraisal made more than 60 days after the effective time of the merger may only be made with the written approval of the surviving corporation. In addition, no appraisal proceeding may be dismissed as to any stockholder without the approval of the Chancery Court, and such approval may be conditioned upon such terms as the Chancery Court deems just.

In view of the complexity of Section 262, if you wish to pursue appraisal rights with respect to the

merger, then you should consult your legal advisor.

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PROPOSAL NO. 2 ADJOURNMENT OF THE SPECIAL MEETING

If at the special meeting of the stockholders, the number of shares of Embarcadero common stock present or represented and voting in favor of adoption of the merger agreement is insufficient to adopt that proposal, we intend to move to adjourn the special meeting in order to enable our board of directors to solicit additional proxies in respect of such proposal. In that event, we will ask our stockholders to vote only upon the adjournment proposal, and not the proposal regarding the adoption of the merger agreement.

In this proposal, we are asking you to authorize the holder of any proxy solicited by our board of directors to vote in favor of granting discretionary authority to the proxy or attorney-in-fact to adjourn the special meeting to another time and place for the purpose of soliciting additional proxies. If the stockholders approve the adjournment proposal, we could adjourn the special meeting and any adjourned session of the special meeting and use the additional time to solicit additional proxies, including the solicitation of proxies from stockholders that have previously voted. Among other things, approval of the adjournment proposal could mean that, even if we had received proxies representing a sufficient number of votes against the adoption of the merger agreement to defeat that proposal, we could adjourn the special meeting without a vote on the merger agreement and seek to convince the holders of those shares to change their votes to votes in favor of adoption of the merger agreement.

Under the DGCL and our Amended and Restated Bylaws, we may also adjourn the special meeting of stockholders for reasons other than to solicit additional proxies if there are insufficient votes at the time of the special meeting to adopt the merger agreement. Any such adjournment may be made without notice (if the adjournment is not for more than thirty days), provided an announcement is made at the special meeting of the time, date and place of the adjourned meeting.

THE BOARD OF DIRECTORS RECOMMENDS THAT YOU VOTE FOR THE ADJOURNMENT PROPOSAL.

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STOCKHOLDER PROPOSALS

The deadline for submitting a stockholder proposal for inclusion in our proxy statement and form of proxy for our 2007 annual meeting of stockholders pursuant to Rule 14a-8 of the Securities and Exchange Commission was February 1, 2007. Stockholders wishing to submit proposals or director nominations that are not to be included in such proxy statement and proxy must have done so on or before April 2, 2007, in accordance with our bylaws. Stockholders are also advised to review our bylaws, which contain additional requirements with respect to advance notice of stockholder proposals and director nominations.

OTHER MATTERS

As of the date of this Proxy Statement, the only business that our board of directors intends to present or knows that others will present at the special meeting is as set forth above. If any other matter or matters are properly brought before the special meeting, or any postponements or adjournments thereof, the proxy holders intend to vote each proxy on these new matters in accordance with the recommendation of our board of directors.

WHERE YOU CAN FIND ADDITIONAL INFORMATION

We file annual, quarterly and current reports, proxy statements and other information with the Securities and Exchange Commission. You may read and copy any reports, statements or other information that we file with the Securities and Exchange Commission at the Securities and Exchange Commission s Public Reference Room, 100 F Street, N.W., Washington, D.C. 20549. Please call the Securities and Exchange Commission at 1-800-SEC-0330 for further information on the operation of the Public Reference Room. These Securities and Exchange Commission filings are also available to the public at the Internet website maintained by the Securities and Exchange Commission at *www.sec.gov*. Our Internet website address is *www.embarcadero.com*. However, any information that is included on or linked to our Internet website is not a part of this Proxy Statement.

INCORPORATION BY REFERENCE

This Proxy Statement incorporates important business and financial information about us that is not included in or delivered with this Proxy Statement. The SEC allows us to incorporate by reference certain information that we file with them, which means that we can disclose certain information to you by referring you to those documents. The information incorporated by reference, although not included in or delivered with this Proxy Statement, is considered to be part of this Proxy Statement, except as described below. We are incorporating by reference each document we file with the SEC under Sections 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934, as amended, after the date of this Proxy Statement and prior to the Special Meeting. All of those documents will be incorporated by reference into this Proxy Statement and deemed to be part of this Proxy Statement from the date of the filing of those documents.

We have also incorporated by reference into this Proxy Statement certain business and financial information contained in the documents listed below which have been filed with the SEC under the Securities Exchange Act:

- our Annual Report on Form 10-K for the year ended December 31, 2006;
- our Quarterly Report on Form 10-Q for the quarter ended March 31, 2007; and
- our Current Reports on Form 8-K filed with the SEC on January 11, 2007, January 30, 2007, February 16, 2007, March 27, 2007, April 6, 2007, April 24, 2007 and May 15, 2007.

Any statement contained in this Proxy Statement or in any document incorporated or deemed to be incorporated by reference in this Proxy Statement will be deemed to be modified or superseded for the purpose of

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this Proxy Statement to the extent that a subsequent statement contained in this Proxy Statement or in any subsequently filed document that also is or is deemed to be incorporated by reference in this Proxy Statement modifies or supersedes the earlier statement. Any statement so modified or superseded will not be deemed to be part of this Proxy Statement.

Documents incorporated by reference are available from us without charge, excluding all exhibits. You can view these documents at our Internet website. The address of our website is *www.embarcadero.com*. You may also obtain documents incorporated by reference by requesting them in writing as follows:

EMBARCADERO TECHNOLOGIES, INC.

100 California Street, 12th Floor

San Francisco, California 94111

Attn: Corporate Secretary

If you would like to request documents from us, please do so immediately in order to ensure timely receipt before the Special Meeting.

HOUSEHOLDING OF PROXY MATERIALS

The SEC has approved a rule governing the delivery of disclosure documents. This rule allows the Company to send a single copy of this proxy statement to any household at which two or more stockholders of the Company reside, if it believes that the stockholders are members of the same family. Some banks, brokers and other intermediaries may be participating in this practice of householding proxy statements and annual reports. This rule benefits both the Company and its stockholders as it reduces the volume of duplicate information received at a stockholder s house and helps reduce the Company s expenses. Each stockholder, however, will continue to receive individual proxy cards or voting instructions forms.

Stockholders that have previously received a single set of disclosure documents may request their own copy by contacting their bank, broker or other nominee record holder. The Company will also deliver a separate copy of this proxy statement to any stockholder upon written request to Embarcadero Technologies, Inc., 100 California Street, 12th Floor, San Francisco, California 94111, Attention: Investor Relations, or upon oral request by calling (415) 834-3131.

Annex A

AGREEMENT AND PLAN OF MERGER

BY AND AMONG

EMB HOLDING CORP.,

EMBT MERGER CORP.

AND

EMBARCADERO TECHNOLOGIES, INC.

DATED AS OF APRIL 5, 2007

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(continued)

	24,004	24,103				
Consumer	32	—	115	147	17,506	17,653
Total Loans	$ 1,755	$ 1,916	$35,954	$39,625	$614,916	$654,541

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Impaired Loans: Loans are considered impaired when, based on current information and events, it is probable the Company will be unable to collect amounts due in accordance with the original contractual terms of the loan agreement, including scheduled principal and interest payments.

All impaired loans have are assessed for recoverability based on an independent third-party full appraisal to determine the net realizable value ("NRV") based on the fair value of the underlying collateral, less cost to sell and other costs, such as unpaid real estate taxes, that have been identified, or the present value of discounted cash flows in the case of certain impaired loans that are not collateral dependent. The appraisal will be based on an "as-is" valuation and will follow a reasonable valuation method that addresses the direct sales comparison, income, and cost approaches to market value, reconciles those approaches, and explains the elimination of each approach not used. Appraisals are generally updated every 12 months or sooner if we have identified possible further deterioration in value. Prior to receiving the updated appraisal, we will establish a specific reserve for any estimated deterioration, based upon our assessment of market conditions, adjusted for estimated costs to sell and other identified costs. If the NRV is greater than the loan amount, then no impairment loss exists. If the NRV is less than the loan amount, the shortfall is recognized by a specific reserve. If the borrower fails to pledge additional collateral in the ninety day period, a charge-off equal to the difference between the loan carrying value and NRV will occur. In certain circumstances, however, a direct charge-off may be taken at the time that the NRV calculation reveals a shortfall. All impaired loans are evaluated based on the criteria stated above on a quarterly basis and any change in the reserve requirements are recorded in the period identified. All partially charged-off loans remain on nonaccrual status until they are brought current as to both principal and interest and have at least nine months of payment history and future collectability of principal and interest is assured.

Impaired loans at March 31, 2014 and December 31, 2013 are set forth in the following tables.

March 31, 2014	Recorded Investment	Unpaid Principal Balance	Related Allowance
	(amounts in thousands)		
With no related allowance recorded:			
Commercial and Industrial	$ —	$ —	$ —
Real Estate Construction:			
Residential	664	1,405	—
Commercial	8,236	8,259	—
Real Estate Mortgage:			
Commercial – Owner Occupied	998	998	—
Commercial – Non-owner Occupied	9,558	11,877	—
Residential – 1 to 4 Family	5,800	5,972	—
Residential – Multifamily	—	—	—
Consumer	94	94	—
	25,350	28,605	—
With an allowance recorded:			
Commercial and Industrial	957	957	429
Real Estate Construction:			
Residential	187	661	24
Commercial	3,464	3,522	144
Real Estate Mortgage:			
Commercial – Owner Occupied	5,947	6,032	221
Commercial – Non-owner Occupied	22,578	22,578	631
Residential – 1 to 4 Family	8,753	9,180	2,749
Residential – Multifamily	368	368	6
Consumer	—	—	—
	42,254	43,298	4,204
Total:			
Commercial and Industrial	957	957	429
Real Estate Construction:			
Residential	851	2,066	24
Commercial	11,700	11,781	144
Real Estate Mortgage:			
Commercial – Owner Occupied	6,945	7,030	221
Commercial – Non-owner Occupied	32,136	34,455	631
Residential – 1 to 4 Family	14,553	15,152	2,749
Residential – Multifamily	368	368	6
Consumer	94	94	—
	$ 67,604	$ 71,903	$ 4,204

December 31, 2013	Recorded Investment	Unpaid Principal Balance	Related Allowance
	(amounts in thousands)		
With no related allowance recorded:			
Commercial and Industrial	$ —	$ —	$ —
Real Estate Construction:			
Residential	780	1,521	—
Commercial	9,568	9,592	—
Real Estate Mortgage:			
Commercial – Owner Occupied	787	842	—
Commercial – Non-owner Occupied	10,853	13,153	—
Residential – 1 to 4 Family	9,892	10,084	—
Residential – Multifamily	99	306	—
Consumer	65	65	—
	32,044	35,563	—
With an allowance recorded:			
Commercial and Industrial	622	622	131
Real Estate Construction:			
Residential	187	661	21
Commercial	2,168	2,225	290
Real Estate Mortgage:			
Commercial – Owner Occupied	5,752	5,782	331
Commercial – Non-owner Occupied	22,234	22,234	801
Residential – 1 to 4 Family	5,430	5,857	338
Residential – Multifamily	370	370	6
Consumer	49	49	23
	36,812	37,800	1,941
Total:			
Commercial and Industrial	622	622	131
Real Estate Construction:			
Residential	967	2,182	21
Commercial	11,736	11,817	290
Real Estate Mortgage:			
Commercial – Owner Occupied	6,539	6,624	331
Commercial – Non-owner Occupied	33,087	35,387	801
Residential – 1 to 4 Family	15,322	15,941	338
Residential – Multifamily	469	676	6
Consumer	114	114	23
	$ 68,856	$ 73,363	$ 1,941

The following tables present by loan portfolio class, the average recorded investment and interest income recognized on impaired loans for the three months ended March 31, 2014 and 2013:

	Three Months Ended March 31,			
	2014		2013	
	Average Recorded Investment	Interest Income Recognized	Average Recorded Investment	Interest Income Recognized
	(amounts in thousands)			
Commercial and Industrial	$957	$4	$662	$4
Real Estate Construction:				
Residential	851	—	681	—
Commercial	11,723	48	14,875	26
Real Estate Mortgage:				
Commercial – Owner Occupied	6,944	74	6,400	61
Commercial – Non-owner Occupied	32,426	319	48,399	353
Residential – 1 to 4 Family	14,632	64	12,133	67
Residential – Multifamily	368	6	2,780	8
Consumer	94	—	203	1
Total	$67,995	$515	$86,133	$520

Troubled debt restructurings: Periodically management evaluates our loans in order to determine the appropriate risk rating, interest accrual status and potential classification as a TDR, some of which are performing and accruing interest. A TDR is a loan on which we have granted a concession due to a borrower's financial difficulty. These are concessions that would not otherwise be considered. The terms of these modified loans may include extension of maturity, renewals, changes in interest rate, additional collateral requirements or infusion of additional capital into the project by the borrower to reduce debt or to support future debt service. On construction and land development loans we may modify the loan as a result of delays or other project issues such as slower than anticipated sell-outs, insufficient leasing activity and/or a decline in the value of the underlying collateral securing the loan. Management believes that working with a borrower to restructure a loan provides us with a better likelihood of collecting our loan. It is our policy not to renegotiate the terms of a commercial loan simply because of a delinquency status. However, we will use our Troubled Debt Restructuring Program to work with delinquent borrowers when the delinquency is temporary. We consider all loans modified in a troubled debt restructuring to be impaired.

At the time a loan is modified in a TDR, we consider the following factors to determine whether the loan should accrue interest:

- Whether there is a period of current payment history under the current terms, typically 6 months;
- Whether the loan is current at the time of restructuring; and
- Whether we expect the loan to continue to perform under the restructured terms with a debt coverage ratio that complies with the Bank's credit underwriting policy of 1.25 times debt service.

We also review the financial performance of the borrower over the past year to be reasonably assured of repayment and performance according to the modified terms. This review consists of an analysis of the borrower's historical results; the borrower's projected results over the next four quarters; current financial information of the borrower and any guarantors. The projected repayment source needs to be reliable, verifiable, quantifiable and sustainable. In addition, all TDRs are reviewed quarterly to determine the amount of any impairment.

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At the time of restructuring, the amount of the loan principal for which we are not reasonably assured of repayment is charged-off, but not forgiven.

A borrower with a restructured loan must make a minimum of six consecutive monthly payments at the restructured level and be current as to both interest and principal to be on accrual status.

Performing TDRs (not reported as non-accrual loans) totaled $35.0 million and $32.9 million with related allowances of $1.0 million and $1.1 million as of March 31, 2014 and December 31, 2013, respectively. Nonperforming TDRs totaled $14.9 million and $18.1 million with related allowances of $102,000 and $71,000 as of March 31, 2014 and December 31, 2013, respectively. All TDRs are classified as impaired loans and are included in the impaired loan disclosures above.

There were no loans modified during the three months ended March 31, 2014 and 2013.

The following tables show loans that were modified and deemed TDRs that subsequently defaulted during the three months ended March 31, 2014 and 2013.

	Three Months Ended March 31,			
	2014		2013	
	Number of Contracts	Recorded Investment	Number of Contracts	Recorded Investment
	(amounts in thousands)			
Commercial and Industrial	—	$ —	—	$—
Real Estate Construction:				
Residential	—	—	1	187
Commercial	—	—	—	—
Real Estate Mortgage:				
Commercial – Owner Occupied	—	—	—	—
Commercial – Non-owner Occupied	—	—	—	—
Residential – 1-4 Family	—	—	—	—
Residential – Multifamily	—	—	—	—
Consumer	—	—	—	—
Total	—	$ —	1	$ 187

Some loan modifications classified as TDRs may not ultimately result in the full collection of principal and interest, as modified, and result in potential incremental losses. These potential incremental losses have been factored into our overall allowance for loan losses estimate. The level of any re-defaults will likely be affected by future economic conditions. Once a loan becomes a TDR, it will continue to be reported as a TDR until it is repaid in full, foreclosed, sold or it meets the criteria to be removed from TDR status.

Credit Quality Indicators: As part of the on-going monitoring of the credit quality of the Company's loan portfolio, management tracks certain credit quality indicators including trends related to the risk grades of loans, the level of classified loans, net charge-offs, nonperforming loans (see details above) and the general economic conditions in the region.

The Company utilizes a risk grading matrix to assign a risk grade to each of its loans. Loans are graded on a scale of 1 to 7. Grades 1 through 4 are considered "Pass". A description of the general characteristics of the seven risk grades is as follows:

1. Good: Borrower exhibits the strongest overall financial condition and represents the most creditworthy profile.
2. Satisfactory (A): Borrower reflects a well-balanced financial condition, demonstrates a high level of creditworthiness and typically will have a strong banking relationship with the Bank.
3. Satisfactory (B): Borrower exhibits a balanced financial condition and does not expose the Bank to more than a normal or average overall amount of risk. Loans are considered fully collectable.
4. Watch List: Borrower reflects a fair financial condition, but there exists an overall greater than average risk. Risk is deemed acceptable by virtue of increased monitoring and control over borrowings. Probability of timely repayment is present.
5. Other Assets Especially Mentioned (OAEM): Financial condition is such that assets in this category have a potential weakness or pose unwarranted financial risk to the Bank even though the asset value is not currently impaired. The asset does not currently warrant adverse classification but if not corrected could weaken and could create future increased risk exposure. Includes loans which require an increased degree of monitoring or servicing as a result of internal or external changes.
6. Substandard: This classification represents more severe cases of #5 (OAEM) characteristics that require increased monitoring. Assets are characterized by the distinct possibility that the Bank will sustain some loss if the deficiencies are not corrected. Assets are inadequately protected by the current net worth and paying capacity of the borrower or of the collateral. Asset has a well-defined weakness or weaknesses that impairs the ability to repay debt and jeopardizes the timely liquidation or realization of the collateral at the asset's net book value.
7. Doubtful: Assets which have all the weaknesses inherent in those assets classified #6 (Substandard) but the risks are more severe relative to financial deterioration in capital and/or asset value; accounting/evaluation techniques may be questionable and the overall possibility for collection in full is highly improbable. Borrowers in this category require constant monitoring, are considered work-out loans and present the potential for future loss to the Bank.

An analysis of the credit risk profile by internally assigned grades as of March 31, 2014 and December 31, 2013 is as follows:

At March 31, 2014	Pass	OAEM	Substandard	Doubtful	Total
			(amounts in thousands)		
Commercial and Industrial	$19,095	$2,584	$462	$—	$22,141
Real Estate Construction:					
Residential	6,251	—	851	—	7,102
Commercial	21,607	2,996	15,202	—	39,805
Real Estate Mortgage:					
Commercial – Owner Occupied	164,763	4,631	2,716	—	172,110
Commercial – Non-owner Occupied	200,784	6,775	13,040	—	220,599
Residential – 1 to 4 Family	133,293	2,126	13,669	—	149,088
Residential – Multifamily	21,466	1,040	368	—	22,874
Consumer	16,967	—	94	—	17,061
Total	$584,226	$20,152	$46,402	$—	$650,780

At December 31, 2013	Pass	OAEM	Substandard	Doubtful	Total
			(amounts in thousands)		
Commercial and Industrial	$20,270	$1,916	$815	$—	$23,001
Real Estate Construction:					
Residential	6,422	—	967	—	7,389
Commercial	25,519	—	18,230	—	43,749
Real Estate Mortgage:					
Commercial – Owner Occupied	162,606	2,293	5,223	—	170,122
Commercial – Non-owner Occupied	198,321	10,835	11,208	—	220,364
Residential – 1 to 4 Family	131,792	1,925	14,443	—	148,160
Residential – Multifamily	22,580	1,054	469	—	24,103
Consumer	17,538	—	115	—	17,653
Total	$585,048	$18,023	$51,470	$—	$654,541

NOTE 5. ALLOWANCE FOR LOAN LOSSES

The allowance for loan losses is a reserve established through a provision for loan losses charged to expense, which represents management's best estimate of probable losses that have been incurred within the existing portfolio of loans. The allowance, in the judgment of management, is necessary to reserve for estimated loan losses and risks inherent in the loan portfolio. The Company's allowance for loan loss methodology includes allowance allocations calculated in accordance with ASC Topic 310, "Receivables" and allowance allocations calculated in accordance with ASC Topic 450, "Contingencies." Accordingly, the methodology is based on historical loss experience by type of credit and internal risk grade, specific homogeneous risk pools and specific loss allocations, with adjustments for current events and conditions. The Company's process for determining the appropriate level of the allowance for loan losses is designed to account for credit deterioration as it occurs. The provision for loan losses reflects loan quality trends, including the levels of, and trends related to, nonaccrual loans, past due loans, potential problem loans, criticized loans and net charge-offs or recoveries, among other factors. The provision for possible loan losses also reflects the totality of actions taken on all loans for a particular period. In other words, the amount of the provision reflects not only the necessary increases in the allowance for loan losses related to newly identified criticized loans, but it also reflects actions taken related to other loans including, among other things, any necessary increases or decreases in required allowances for specific loans or loan pools.

The level of the allowance reflects management's continuing evaluation of industry concentrations, specific credit risks, loan loss experience, current loan portfolio quality, present economic, political and regulatory conditions and unidentified losses inherent in the current loan portfolio. Portions of the allowance may be allocated for specific credits; however, the entire allowance is available for any credit that, in management's judgment, should be charged off. While management utilizes its best judgment and information available, the ultimate adequacy of the allowance is dependent upon a variety of factors beyond the Company’s control, including, among other things, the performance of the Company's loan portfolio, the economy, changes in interest rates and the view of the regulatory authorities toward loan classifications.

The allowances established for probable losses on specific loans are based on a regular analysis and evaluation of problem loans. Loans are classified based on an internal credit risk grading process that evaluates, among other things: (i) the obligor's ability to repay; (ii) the underlying collateral, if any; and (iii) the economic environment and industry in which the borrower operates. This analysis is performed at the relationship manager level for all commercial loans. When a loan has a grade of 6 or higher, the loan is analyzed to determine whether the loan is impaired and, if impaired, whether there is a need to specifically allocate a portion of the allowance for loan losses to the loan. Specific valuation allowances are determined by analyzing the borrower's ability to repay amounts owed, any collateral deficiencies, the relative risk grade of the loan and economic conditions affecting the borrower's industry, among other things.

Historical valuation allowances are calculated based on the historical loss experience of specific types of loans. The Company calculates historical loss ratios for pools of similar loans with similar characteristics based on the proportion of actual charge-offs experienced to the total population of loans in the pool. The historical loss ratios are periodically updated based on actual charge-off experience. A historical valuation allowance is established for each pool of similar loans based upon the product of the historical loss ratio and the total dollar amount of the loans in the pool. The Company's pools of similar loans include similarly risk-graded groups of commercial loans, commercial real estate loans, consumer real estate loans and consumer and other loans.

General valuation allowances are based on general economic conditions and other qualitative risk factors both internal and external to the Company. In general, such valuation allowances are determined by evaluating, among other things: (i) the experience, ability and effectiveness of the Bank's lending management and staff; (ii) the effectiveness of the Bank's loan policies, procedures and internal controls; (iii)

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changes in asset quality; (iv) changes in loan portfolio volume; (v) the composition and concentrations of credit; (vi) the impact of competition on loan structuring and pricing; (vii) the effectiveness of the internal loan review function; (viii) the impact of environmental risks on portfolio risks; and (ix) the impact of rising interest rates on portfolio risk. Management evaluates the degree of risk that each one of these components has on the quality of the loan portfolio on a quarterly basis. Each component is determined to have either a high, high-moderate, moderate, low-moderate or low degree of risk. The results are then input into a "general allocation matrix" to determine an appropriate general valuation allowance.

An analysis of the allowance for loan losses for the three month periods ended March 31, 2014 and 2013 is as follows:

Allowance for Loan Losses:	For the three months ended March 31, 2014				
	Beginning Balance	Charge-offs	Recoveries	Provisions (Credits)	Ending Balance
	(amounts in thousands)				
Commercial and Industrial	$591	$—	$—	$282	$873
Real Estate Construction:					
Residential	414	—	—	(276)	138
Commercial	948	—	—	(199)	749
Real Estate Mortgage:					
Commercial – Owner Occupied	4,735	(80)	2	53	4,710
Commercial – Non-owner Occupied	7,530	—	—	(1,557)	5,973
Residential – 1 to 4 Family	3,612	(20)	—	2,410	6,002
Residential – Multifamily	389	—	—	(19)	370
Consumer	341	(24)	—	2	319
Unallocated	—	—	—	304	304
Total	$18,560	$(124)	$2	$1,000	$19,438

Allowance for Loan Losses:	For the three months ended March 31, 2013				
	Beginning Balance	Charge-offs	Recoveries	Provisions (Credits)	Ending Balance
	(amounts in thousands)				
Commercial and Industrial	$470	$—	$—	$(24)	$446
Real Estate Construction:					
Residential	845	—	—	(402)	443
Commercial	1,115	—	—	176	1,291
Real Estate Mortgage:					
Commercial – Owner Occupied	4,095	—	—	293	4,388
Commercial – Non-owner Occupied	7,379	—	—	34	7,413
Residential – 1 to 4 Family	4,384	(267)	192	195	4,504
Residential – Multifamily	312	—	—	14	326
Consumer	336	—	—	(2)	334
Unallocated	—	—	—	716	716
Total	$18,936	$(267)	$192	$1,000	$19,861

Allowance for Loan Losses, at March 31, 2014	Individually evaluated for impairment	Collectively evaluated for impairment	Total
		(amounts in thousands)	
Commercial and Industrial	$ 429	$ 444	$ 873
Real Estate Construction:			
Residential	24	114	138
Commercial	144	605	749
Real Estate Mortgage:			
Commercial – Owner Occupied	221	4,489	4,710
Commercial – Non-owner Occupied	631	5,342	5,973
Residential – 1 to 4 Family	2,749	3,253	6,002
Residential – Multifamily	6	364	370
Consumer	—	319	319
Unallocated	—	304	304
Total	$ 4,204	$ 15,234	$ 19,438

Allowance for Loan Losses, at December 31, 2013	Individually evaluated for impairment	Collectively evaluated for impairment	Total
		(amounts in thousands)	
Commercial and Industrial	$ 131	$ 460	$ 591
Real Estate Construction:			
Residential	21	393	414
Commercial	290	658	948
Real Estate Mortgage:			
Commercial – Owner Occupied	331	4,404	4,735
Commercial – Non-owner Occupied	801	6,729	7,530
Residential – 1 to 4 Family	338	3,274	3,612
Residential – Multifamily	6	383	389
Consumer	23	318	341
Unallocated	—	—	—
Total	$ 1,941	$ 16,619	$ 18,560

Loans, at March 31, 2014:	Individually evaluated for impairment	Collectively evaluated for impairment	Total
	(amounts in thousands)		
Commercial and Industrial	$ 957	$ 21,184	$ 22,141
Real Estate Construction:			
Residential	851	6,251	7,102
Commercial	11,700	28,105	39,805
Real Estate Mortgage:			
Commercial – Owner Occupied	6,945	165,165	172,110
Commercial – Non-owner Occupied	32,136	188,463	220,599
Residential – 1 to 4 Family	14,553	134,535	149,088
Residential – Multifamily	368	22,506	22,874
Consumer	94	16,967	17,061
Total	$ 67,604	$ 583,176	$ 650,780

Loans, at December 31, 2013:	Individually evaluated for impairment	Collectively evaluated for impairment	Total
	(amounts in thousands)		
Commercial and Industrial	$ 622	$ 22,379	$ 23,001
Real Estate Construction:			
Residential	967	6,422	7,389
Commercial	11,736	32,013	43,749
Real Estate Mortgage:			
Commercial – Owner Occupied	6,539	163,583	170,122
Commercial – Non-owner Occupied	33,087	187,277	220,364
Residential – 1 to 4 Family	15,322	132,838	148,160
Residential – Multifamily	469	23,634	24,103
Consumer	114	17,539	17,653
Total	$ 68,856	$ 585,685	$ 654,541

NOTE 6. REGULATORY RESTRICTIONS

The Company and the Bank are subject to various regulatory capital requirements of federal and state banking agencies. Failure to meet minimum capital requirements can initiate certain mandatory and possibly additional discretionary actions by regulators that, if undertaken, could have a direct material effect on the Company's financial statements. Under capital adequacy guidelines and the regulatory framework for prompt corrective action, the Company and the Bank must meet specific capital guidelines that involve quantitative measures of assets, liabilities, and certain off-balance sheet items as calculated under regulatory accounting practices. The Company and the Bank's capital amounts and classification are also subject to qualitative judgments by the regulators about components, risk weightings, and other factors. Prompt corrective action provisions are not applicable to bank holding companies.

Quantitative measures established by regulation to ensure capital adequacy require the Company and the Bank to maintain minimum amounts and ratios (set forth in the following table) of total and Tier 1 capital (as defined in the regulations) to risk-weighted assets (as defined), and of Tier 1 capital (as defined) to average assets (as defined).

	Actual		For Capital Adequacy Purposes		To be Well- Capitalized Under Prompt Corrective Action Provisions	
Parke Bancorp, Inc.	Amount	Ratio	Amount	Ratio	Amount	Ratio
As of March 31, 2014 (amounts in thousands except ratios)						
Total Risk Based Capital (to Risk Weighted Assets)	$115,908	17.26 %	$53,725	8 %	N/A	N/A
Tier 1 Capital (to Risk Weighted Assets)	$107,377	15.99 %	$26,863	4 %	N/A	N/A
Tier 1 Capital (to Average Assets)	$107,377	13.56 %	$31,673	4 %	N/A	N/A

	Actual		For Capital Adequacy Purposes		To be Well- Capitalized Under Prompt Corrective Action Provisions	
Parke Bancorp, Inc.	Amount	Ratio	Amount	Ratio	Amount	Ratio
As of December 31, 2013 (amounts in thousands except ratios)						
Total Risk Based Capital (to Risk Weighted Assets)	$115,554	17.04 %	$54,259	8 %	N/A	N/A
Tier 1 Capital (to Risk Weighted Assets)	$106,952	15.77 %	$27,130	4 %	N/A	N/A
Tier 1 Capital	$106,952	13.94 %	$30,463	4 %	N/A	N/A

(to Average Assets)

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Parke Bank	Actual Amount	Actual Ratio		For Capital Adequacy Purposes Amount	For Capital Adequacy Purposes Ratio		To be Well- Capitalized Under Prompt Corrective Action Provisions Amount	To be Well- Capitalized Under Prompt Corrective Action Provisions Ratio	
As of March 31, 2014 (amounts in thousands except ratios)									
Total Risk Based Capital (to Risk Weighted Assets)	$115,455	17.19	%	$53,725	8	%	$67,156	10	%
Tier 1 Capital (to Risk Weighted Assets)	$106,924	15.92	%	$26,862	4	%	$40,293	6	%
Tier 1 Capital (to Average Assets)	$106,924	13.50	%	$31,673	4	%	$39,591	5	%

Parke Bank	Actual Amount	Actual Ratio		For Capital Adequacy Purposes Amount	For Capital Adequacy Purposes Ratio		To be Well- Capitalized Under Prompt Corrective Action Provisions Amount	To be Well- Capitalized Under Prompt Corrective Action Provisions Ratio	
As of December 31, 2013 (amounts in thousands except ratios)									
Total Risk Based Capital (to Risk Weighted Assets)	$114,744	16.92	%	$54,259	8	%	$67,824	10	%
Tier 1 Capital (to Risk Weighted Assets)	$106,142	15.65	%	$27,130	4	%	$40,694	6	%
Tier 1 Capital (to Average Assets)	$106,142	13.94	%	$30,463	4	%	$38,079	5	%

On October 3, 2008 Congress passed the Emergency Economic Stabilization Act of 2008 (EESA), which provides the U.S. Secretary of the Treasury with broad authority to implement certain actions to help restore stability and liquidity to the U.S. markets. One of the provisions resulting from the EESA was the Treasury Capital Purchase Program (CPP) which provided for the direct equity investment of perpetual preferred stock by the U.S. Treasury in qualified financial institutions. This program was voluntary and required an institution to comply with several restrictions and provisions, including limits on executive compensation, stock redemptions, and declaration of dividends. The perpetual preferred stock has a dividend rate of 5% per year until the fifth anniversary of the Treasury investment and a dividend rate of 9%, thereafter. The CPP also required the Treasury to receive a warrant to purchase shares of common stock equal to 15% of the capital invested by the U.S. Treasury. The Company received an investment in perpetual preferred stock of $16,288,000 on January 30, 2009. These proceeds were allocated between the preferred stock and the warrant based

on relative fair value in accordance with FASB ASC Topic 470-20, "Debt with Conversion and Other Options." The allocation of proceeds resulted in a discount on the preferred stock that is being accreted over five years. The Company issued a warrant to purchase 329,757 shares of common stock to the U.S. Treasury and $930,000 of those proceeds was allocated to the warrant. The warrant was accounted for as equity securities. The warrant had a contractual life of 10 years and an exercise price of $6.12 per share of common stock. In November of 2012, the U.S. Treasury held an auction and sold its investment in the preferred stock to institutional investors. Restrictions related to the CPP have been lifted. In June of 2013, the U.S. Treasury held an auction to sell the warrant and the Company was the successful bidder thereby redeeming the outstanding warrant from the U.S. Treasury at a cost of $1.7 million.

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In December of 2013, the Company completed a private placement of newly designated 6.00% Non-Cumulative Perpetual Convertible Preferred Stock, Series B, with a liquidation preference of $1,000 per share. The Company sold 20,000 shares in the placement for gross proceeds of $20.0 million. Each share of Series B Preferred Stock is convertible, at the option of the holder into 93.9496 shares of Common Stock. Upon full conversion of the Series B Preferred Stock, the Company will issue up to 1,878,992 shares of Common Stock assuming that the Conversion Rate does not change. The Conversion Rate and the total number of shares to be issued would be adjusted for stock dividends, stock splits and other corporate actions. The Conversion Rate was set using a conversion price for the common stock of $10.6440, which was approximately 20% over the closing price of the common stock on October 10, 2013, the day the Series B Preferred Stock was priced. Proceeds after expenses were $18.5 million. Parke Bancorp utilized a portion of the proceeds to repurchase and retire 16,288 shares of outstanding Fixed Rate Cumulative Perpetual Preferred Stock, Series A. The Company was able to repurchase these shares for an aggregate price of $14.34 million, a discount of $1.9 million.

NOTE 7. OTHER COMPREHENSIVE INCOME

The Company's accumulated other comprehensive income consisted of the following at March 31, 2014 and December 31, 2013:

	March 31, 2014	December 31, 2013
	(amounts in thousands)	
Securities:		
Non-credit unrealized losses on securities with OTTI	$ (457)	$ (457)
Unrealized gains on securities without OTTI	303	65
Tax impact	62	157
Other comprehensive income	$ (92)	$ (235)

NOTE 8. FAIR VALUE

Fair Value Measurements

The Company uses fair value measurements to record fair value adjustments to certain assets and liabilities and to determine fair value disclosures. In accordance with the Fair Value Measurements and Disclosures Topic 820 of FASB ASC, the fair value of a financial instrument is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. Fair value is best determined based upon quoted market prices. However, in many instances, there are no quoted market prices for the Company's various financial instruments. In cases where quoted market prices are not available, fair values are based on estimates using present value or other valuation techniques. Those techniques are significantly affected by the assumptions used, including the discount rate and estimates of future cash flows. Accordingly, the fair value estimates may not be realized in an immediate settlement of the instrument.

The fair value guidance provides a consistent definition of fair value, which focuses on exit price in an orderly transaction (that is, not a forced liquidation or distressed sale) between market participants at the measurement date under current market conditions. If there has been a significant decrease in the volume and level of activity for the asset or liability, a change in valuation technique or the use of multiple valuation techniques may be appropriate. In such instances, determining the price at which willing market participants would transact at the measurement date under current market conditions depends on the facts and circumstances and requires the use of significant judgment. The fair value is a reasonable point within the

range that is most representative of fair value under current market conditions. In accordance with this guidance, the Company groups its assets and liabilities carried at fair value in three levels as follows:

Level 1 Input:

1) Unadjusted quoted prices in active markets that are accessible at the measurement date for identical, unrestricted assets or liabilities.

Level 2 Inputs:

1) Quoted prices for similar assets or liabilities in active markets.
2) Quoted prices for identical or similar assets or liabilities in markets that are not active.
3) Inputs other than quoted prices that are observable, either directly or indirectly, for the term of the asset or liability (e.g., interest rates, yield curves, credit risks, prepayment speeds or volatilities) or "market corroborated inputs."

Level 3 Inputs:

1) Prices or valuation techniques that require inputs that are both unobservable (i.e. supported by little or no market activity) and that are significant to the fair value of the assets or liabilities.
2) These assets and liabilities include financial instruments whose value is determined using pricing models, discounted cash flow methodologies, or similar techniques, as well as instruments for which the determination of fair value requires significant management judgment or estimation.

Fair Value on a Recurring Basis:

The following is a description of the Company's valuation methodologies for assets carried at fair value. These methods may produce a fair value calculation that may not be indicative of net realizable value or reflective of future fair values. Furthermore, while the Company believes that its valuation methods are appropriate and consistent with other market participants, the use of different methodologies or assumptions to determine the fair value of certain financial instruments could result in a different estimate of fair value at the reporting measurement date.

Investment Securities Available for Sale:

Where quoted prices are available in an active market, securities are classified in Level 1 of the valuation hierarchy. Securities in Level 1 are exchange-traded equities. If quoted market prices are not available for the specific security, then fair values are provided by independent third-party valuations services. These valuations services estimate fair values using pricing models and other accepted valuation methodologies, such as quotes for similar securities and observable yield curves and spreads. As part of the Company's overall valuation process, management evaluates these third-party methodologies to ensure that they are representative of exit prices in the Company's principal markets. Securities in Level 2 include U.S. Government agencies, mortgage-backed securities, state and municipal securities and TruPS.

Securities in Level 3 include thinly-traded and collateralized debt obligations. With the assistance of competent third-party valuation specialists, the Company utilized the following methodology to determine the fair value:

Cash flows were developed based on the estimated speeds at which the TruPS are expected to prepay (a range of 1% to 2%), the estimated rates at which the TruPS are expected to defer payments, the estimated rates at which the TruPS are expected to default (a range of 0.57% to 0.66%), and the severity of the losses on securities which default (95%). TruPS generally allow for prepayment by the issuer without a prepayment

penalty any time after five years. Due to the lack of new TruPS and the relatively poor conditions of the financial institution industry, a relatively modest rate of prepayment was assumed going forward. Estimates for the Constant Default Rate ("CDR") are based on the payment characteristics of the TruPS themselves (e.g. current, deferred, or defaulted) as well as the financial condition of the TruPS issuers in the pool. Estimates for the near-term rates of deferral and CDR are based on key financial ratios relating to the financial institutions' capitalization, asset quality, profitability and liquidity. Finally, we consider whether or not the financial institution has received TARP funding, and if it has, the amount. Longer-term rates of deferral and defaults are based on historical averages. The fair value of each bond was assessed by discounting its projected cash flows by a discount rate. The discount rates were based on the yields of publicly traded TruPS and preferred stock issued by comparably rated banks (3 month LIBOR plus a spread of 400 to 959 basis points).

The table below presents the balances of assets and liabilities measured at fair value on a recurring basis.

Financial Assets	Level 1	Level 2	Level 3	Total
		(amounts in thousands)		
Securities Available for Sale				
As of March 31, 2014				
Corporate debt obligations	$—	$517	$—	$517
Residential mortgage-backed securities	—	29,759	—	29,759
Collateralized mortgage-backed securities		523	—	523
Collateralized debt obligations	—	—	349	349
Total	$—	$30,799	$349	$31,148
As of December 31, 2013				
Corporate debt obligations	$—	$506	$—	$506
Residential mortgage-backed securities	—	30,450	—	30,450
Collateralized mortgage-backed securities		595	—	595
Collateralized debt obligations	—	—	4,144	4,144
Total	$—	$31,551	$4,144	$35,695

For the three months ended March 31, 2014, there were no transfers between the levels within the fair value hierarchy.

The changes in Level 3 assets measured at fair value on a recurring basis are summarized as follows for the three months ended March 31:

	Securities Available for Sale	
	2014	2013
	(amounts in thousands)	
Beginning balance at January 1,	$ 4,144	$ 3,942
Total net gains included in:		
Net gain	178	—
Other comprehensive income	—	52
Settlements	(3,973)	—
Net transfers into Level 3	—	—
Ending balance	$ 349	$ 3,994

Fair Value on a Non-recurring Basis:

Certain assets and liabilities are not measured at fair value on an ongoing basis but are subject to fair value adjustments in certain circumstances (for example, when there is evidence of impairment).

Financial Assets	Level 1	Level 2	Level 3	Total
		(amounts in thousands)		
As of March 31, 2014				
Collateral dependent impaired loans	$—	$—	$38,005	$38,005
OREO	—	—	29,642	29,642
As of December 31, 2013				
Collateral dependent impaired loans	$—	$—	$41,311	$41,311
OREO	—	—	28,910	28,910

Collateral dependent impaired loans, which are measured in accordance with FASB ASC Topic 310 “Receivables”, for impairment, had a carrying amount of $38.0 million and $41.3 million at March 31, 2014 and December 31, 2013 respectively, with a valuation allowance of $3.4 million and $1.0 million at March 31, 2014 and December 31, 2013, respectively. The valuation allowance for collateral dependent impaired loans is included in the allowance for loan losses on the balance sheet. All collateral dependent impaired loans have an independent third-party full appraisal to determine the NRV based on the fair value of the underlying collateral, less cost to sell (a range of 5% to 10%) and other costs, such as unpaid real estate taxes, that have been identified, or the present value of discounted cash flows in the case of certain impaired loans that are not collateral dependent. The appraisal will be based on an "as-is" valuation and will follow a reasonable valuation method that addresses the direct sales comparison, income, and cost approaches to market value, reconciles those approaches, and explains the elimination of each approach not used. Appraisals are updated every 12 months or sooner if we have identified possible further deterioration in value.

OREO consists of commercial real estate properties which are recorded at fair value based upon current appraised value less estimated disposition costs, which is adjusted based upon management’s review and changes in market conditions (Level 3 inputs). Properties are reappraised annually.

Fair Value of Financial Instruments

The Company discloses estimated fair values for its significant financial instruments in accordance with FASB ASC Topic 825, "Disclosures about Fair Value of Financial Instruments". The methodologies for estimating the fair value of financial assets and liabilities that are measured at fair value on a recurring or non-recurring basis are discussed above. The methodologies for estimating the fair value of other financial assets and liabilities are discussed below.

For certain financial assets and liabilities, carrying value approximates fair value due to the nature of the financial instrument. These instruments include cash and cash equivalents, restricted stock, accrued interest receivable, demand and other non-maturity deposits and accrued interest payable.

The Company used the following methods and assumptions in estimating the fair value of the following financial instruments:

Investment Securities: Fair value of securities available for sale is described above. Fair value of held to maturity securities is based upon quoted market prices.

Loans (other than impaired): Fair values are estimated for portfolios of loans with similar financial characteristics. Loans are segregated by type such as commercial, residential mortgage and other consumer. Each loan category is further segmented into groups by fixed and adjustable rate interest terms and by performing and nonperforming categories. The fair value of performing loans is calculated by discounting scheduled cash flows through their estimated maturity using estimated market discount rates that reflect the credit and interest rate risk inherent in each group of loans. The estimate of maturity is based on contractual maturities for loans within each group, or on the Company's historical experience with repayments for each loan classification, modified as required by an estimate of the effect of current economic conditions.

Deposits: The fair value of time deposits is based on the discounted value of contractual cash flows, where the discount rate is estimated using the market rates currently offered for deposits of similar remaining maturities.

Borrowings: The fair values of FHLB borrowings, other borrowed funds and subordinated debt are based on the discounted value of estimated cash flows. The discounted rate is estimated using market rates currently offered for similar advances or borrowings.

Bank premises and equipment, customer relationships, deposit base and other information required to compute the Company's aggregate fair value are not included in the above information. Accordingly, the above fair values are not intended to represent the aggregate fair value of the Company.

The following table summarizes the carrying amounts and fair values for financial instruments at March 31, 2014 and December 31, 2013:

	Level in Fair Value Hierarchy	March 31, 2014		December 31, 2013	
		Carrying Value	Fair Value	Carrying Value	Fair Value
		(amounts in thousands)			
Financial Assets:					
Cash and cash equivalents	Level 1	$51,379	$51,379	$45,661	$45,661
Investment securities AFS	(1)	31,148	31,148	35,695	35,695
Investment securities HTM	Level 2	2,112	2,238	2,103	2,155
Restricted stock	Level 2	3,413	3,413	3,618	3,618
Loans held for sale	Level 2	17,357	17,357	12,069	12,069
Loans, net	(2)	631,342	634,944	635,981	641,449
Accrued interest receivable	Level 2	2,804	2,804	2,717	2,717
Financial Liabilities:					
Demand and savings deposits	Level 2	$372,382	$372,382	$383,412	$383,412
Time deposits	Level 2	261,071	263,034	243,356	245,094
Borrowings	Level 2	64,139	60,408	68,683	64,185
Accrued interest payable	Level 2	454	454	423	423

(1) See the recurring fair value table above.
(2) For non-impaired loans, Level 2; for impaired loans, Level 3.

NOTE 9. INCOME TAXES

	For the three months ended March 31, 2014	2013
	(Amount in thousands)	
Income Taxes		
Pre-tax Income	$ 3,625	$ 3,614
Income Tax Expense	1,162	1,370

For the three months ended March 31, 2014, the Company recorded a net tax expense of $1.2 million compared to a net tax expense of $1.4 million for the three months ended March 31, 2013.

Deferred federal and state tax assets are reduced by a valuation allowance when, in the opinion of management, it is more likely than not that some portion or all of the deferred tax assets will not be realized. The lower level of income tax expense in the 2012 periods as compared to the comparable periods in 2013 is due to lower earnings and the change to an alternative tax methodology for bank owned life insurance (“BOLI”) income whereby it is now treated on a tax free basis.

NOTE 10. EARNINGS PER SHARE ("EPS")

The following tables set forth the calculation of basic and diluted EPS for the three month periods ended March 31, 2014 and 2013.

	For the three months ended March 31,			
	2014		2013	
	(Amounts in thousands except share data)			
Basic earnings per common share				
Net income available to common shareholders	$	2,026	$	1,883
Average common shares outstanding		5,988,742		5,927,010
Basic earnings per common share	$	0.34	$	0.32
Diluted earnings per common share				
Net income available to common shareholders	$	2,026	$	1,883
Dividend on Preferred Series B		300		—
Average common shares outstanding		5,988,742		5,927,010
Dilutive potential common shares		1,927,822		3,207
Total diluted average common shares outstanding		7,916,564		5,930,217
Diluted earnings per common share	$	0.29	$	0.32

For the three months ended March 31, 2013, options to purchase 301,555 shares were outstanding but were not included in the computation of diluted EPS because the options' common stock equivalents were antidilutive.

In May of 2013 the Company paid a 10% common stock dividend to shareholders. All weighted share information has been retroactively adjusted to give effect to this stock dividend for the periods presented.

NOTE 11. SUBSEQUENT EVENTS

Accounting guidance establishes general standards of accounting for, and disclosure of, events that occur after the balance sheet date but before financial statements are issued or are available to be issued. Accordingly, Management has evaluated subsequent events after March 31, 2014 through the date the financial statements were issued and determined that no subsequent events warranted recognition in or disclosure in the interim financial statements.

ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

Forward-Looking Statements

The Company may from time to time make written or oral "forward-looking statements" including statements contained in this Report and in other communications by the Company which are made in good faith pursuant to the "safe harbor" provisions of the Private Securities Litigation Reform Act of 1995. These forward-looking statements, such as statements of the Company's plans, objectives, expectations, estimates and intentions, involve risks and uncertainties and are subject to change based on various important factors (some of which are beyond the Company's control). The following factors, among others, could cause the Company's financial performance to differ materially from the plans, objectives, expectations, estimates and intentions expressed in such forward-looking statements: the strength of the United States economy in general and the strength of the local economies in which the Company conducts operations; the effects of, and changes in, trade, monetary and fiscal policies and laws, including interest rate policies of the Board of Governors of the Federal Reserve System, the impact of the Bank’s compliance with the Consent Orders entered into with the FDIC and the Department, inflation, interest rate, market and monetary fluctuations; the timely development of and acceptance of new products and services of the Company and the perceived overall value of these products and services by users, including the features, pricing and quality compared to competitors' products and services; the impact of changes in financial services laws and regulations (including laws concerning taxes, banking, securities and insurance); technological changes; acquisitions; changes in consumer spending and saving habits; and the success of the Company at managing the risks involved in the foregoing.

The Company cautions that the foregoing list of important factors is not exclusive. The Company also cautions readers not to place undue reliance on these forward-looking statements, which reflect management's analysis only as of the date on which they are given. The Company is not obligated to publicly revise or update these forward-looking statements to reflect events or circumstances that arise after any such date.

General

The Company's results of operations are dependent primarily on net interest income, which is the difference between the interest income earned on its interest-earning assets, such as loans and securities, and the interest expense paid on its interest-bearing liabilities, such as deposits and borrowings. The Company also generates non-interest income such as service charges, gains from the sale of loans, earnings from BOLI, loan exit fees and other fees. The Company's non-interest expenses primarily consist of employee compensation and benefits, occupancy expenses, marketing expenses, data processing costs and other operating expenses. The Company is also subject to losses in its loan portfolio if borrowers fail to meet their obligations. The Company's results of operations are also significantly affected by general economic and competitive conditions, particularly changes in market interest rates, government policies and actions of regulatory agencies.

The Company is intently focused on managing its nonperforming assets. The deterioration of the local real estate market and the continued high levels of unemployment have had a significant negative impact on the credit quality of our loan portfolio. Management has allocated significant resources to resolve these issues, either through foreclosure or working with borrowers to bring the loans current. New processes have been implemented to identify and monitor impaired loans. New appraisals of the collateral securing impaired loans have been obtained to identify any potential exposure. The lengthy process of foreclosure has had a negative impact on earnings due to higher levels of legal fees.

Comparison of Financial Condition at March 31, 2014 and December 31, 2013

At March 31, 2014, the Company's total assets increased to $800.0 million from $794.9 million at December 31, 2013, an increase of $5.1 million or 0.6%, primarily due to an increase in loans available for sale.

Cash and cash equivalents increased $5.7 million to $51.4 million at March 31, 2014 from $45.7 million at December 31, 2013.

Total investment securities decreased to $33.26 million at March 31, 2014 from $37.80 million at December 31, 2013, a decrease of $4.54 million or 12.0%. The decrease was due to the sale of three TruPS collateralized debt investment securities. Due to the recently enacted Volcker Rule, financial institutions are no longer permitted to hold these securities in portfolio. The sale generated a gain of $178,000.

Management evaluates the investment portfolio for OTTI on a quarterly basis. Factors considered in the analysis include, but are not limited to, whether an adverse change in cash flows has occurred, the length of time and the extent to which the fair value has been less than cost, whether the Company intends to sell, or will more likely than not be required to sell, the investment before recovery of its amortized cost basis, which may be maturity, credit rating downgrades, the percentage of performing collateral that would need to default or defer to cause a break in yield or a temporary interest shortfall, and management's assessment of the financial condition of the underlying issuers. For the three months and ended March 31, 2014, the Company did not recognize any credit-related OTTI charges.

Total gross loans decreased to $650.8 million at March 31, 2014 from $654.5 million at December 31, 2013, a decrease of $3.7 million or 0.6%.

Delinquent loans totaled $35.4 million or 5.4% of total loans at March 31, 2014, a decrease of $4.3 million from December 31, 2013. Delinquent loan balances by number of days delinquent were: 30 to 89 days --- $2.7 million; 90 days and greater not accruing interest --- $32.7 million.

At March 31, 2014, the Company had $32.7 million in nonaccrual loans or 5.0% of total loans, a decrease from $36.0 million or 5.5% of total loans at December 31, 2013. The three largest nonperforming loans are a $5.0 million retail center construction loan, a $4.7 residential home loan, and a $3.0 million residential home loan.

The composition of nonaccrual loans as of March 31, 2014 and December 31, 2013 was as follows:

	March 31, 2014	December 31, 2013
	(Amounts in thousands except ratios)	
Commercial and Industrial	$ 462	$ 122
Real Estate Construction:		
Residential	851	967
Commercial	8,303	9,908
Real Estate Mortgage:		
Commercial – Owner Occupied	1,472	976
Commercial – Non-owner Occupied	9,558	10,853
Residential – 1 to 4 Family	11,954	12,914
Residential – Multifamily	—	99
Consumer	94	115
Total	$ 32,694	$ 35,954
Nonperforming loans to total loans	5.0 %	5.5 %

At March 31, 2014, allowance for loan losses was $19.4 million, as compared to $18.6 million at December 31, 2013. The ratio of allowance for loan losses to total loans was 3.0% at March 31, 2014 compared to 2.8% at December 31, 2013. The increase is due to the establishment of a $2.4 million specific reserve on a nonperforming residential mortgage loan based on an updated appraisal. The ratio of allowance for loan losses to non-performing loans improved to 59.5% at March 31, 2014, compared to 51.6% at December 31, 2013. During the three month period ended March 31, 2014, the Company charged-off $124,000 in loans, and recovered $2,000. Compared to $267,000 charged off in 2013 and no recoveries. Specific allowances for loan losses have been established in the amount of $4.2 million on impaired loans totaling $67.6 million at March 31, 2014, as compared to $1.9 million at December 31, 2013. We have provided for all losses that are both probable and reasonably estimable at March 31, 2014 and December 31, 2013. There can be no assurance, however, that further additions to the allowance will not be required in future periods.

The negative economic trends that began in 2008, including the weakness in the residential and commercial real estate markets and high levels of unemployment, have had a significant impact on the credit quality of our loan portfolio. We are aggressively managing all loan relationships by enhancing our credit monitoring and tracking systems. New processes have been established to manage delinquencies. We are working closely with borrowers to resolve these nonperforming loans. Updated appraisals are being obtained, where appropriate, to ensure that collateral values are sufficient to cover outstanding loan balances, and we are establishing specific reserves for any potential shortfall. With all these measures in place, our nonperforming assets have decreased from 8.2% of total assets at December 31, 2013 to 7.8% at March 31, 2014. See Note 4 – Loans for additional information. Cash flow-dependent commercial real estate properties are being visited to inspect current tenant lease status. Where necessary, we will apply our loan work-out experience to protect our collateral position.

OREO at March 31, 2014 was $29.6 million, compared to $28.9 million at December 31, 2013, the largest being a condominium development valued at $11.9 million.

An analysis of OREO activity is as follows:

	For the Three Months Ended March 31,	
	2014	2013
	(Amounts in thousands)	
Balance at beginning of period	$ 28,910	$ 26,057
Real estate acquired in settlement of loans	1,324	1,030
Sales of real estate	(241)	(817)
Loss on sale of real estate	(76)	(206)
Write-down of real estate carrying values	(319)	(158)
Donated property	(22)	—
Capitalized improvements to real estate	66	—
Balance at end of period	$ 29,642	$ 25,906

At March 31, 2014, the Bank's total deposits increased to $633.5 million from $626.8 million at December 31, 2013, an increase of $6.7 million or 1.1%.

At March 31, 2014, total shareholders' equity increased to $95.9 million from $93.7 million at December 31, 2013, an increase of $2.2 million, or 2.3%, due to the retention of earnings from the period.

Comparison of Operating Results for the Three Months Ended March 31, 2014 and 2013

General: Net income available to common shareholders for the three months ended March 31, 2014 was $2.0 million, compared to $1.9 million for the same period in 2013. The change was impacted by the following:

Interest Income: Interest income increased $314,000, or 3.4%, to $9.6 million for the three months ended March 31, 2014, from $9.3 million for the three months ended March 31, 2013. The increase is attributable to higher yield on loans and an increase in average loan balances. Average loans for the three month period ended March 31, 2014 were $652.7 million compared to $631.0 million for the same period last year. The average yield on loans was 5.30% for the three months ended March 31, 2014 compared to 5.13% for the same period in 2013.

Interest Expense: Interest expense decreased $199,000 to $1.4 million for the three months ended March 31, 2014, from $1.6 million for the three months ended March 31, 2013. The decrease is primarily attributable to a lower average cost of deposits as the Bank has been able to re-price deposits due to the current, historically low, interest rate environment and the drop in the average deposit balances. The average rate paid on deposits for the three month period ended March 31, 2014 was 0.80% compared to 0.92% for the same period last year.

Net Interest Income: Net interest income increased $513,000 to $8.2 million for the three months ended March 31, 2014, as compared to $7.7 million for the same period last year. We experienced an increase in our net interest rate spread of 21 basis points, to 4.44% for the three months ended March 31, 2014, from 4.13% for the same period last year. Our net interest margin increased 20 basis points to 4.53% for the three months ended March 31, 2014, from 4.33% for the same period last year.

Provision for Loan Losses: We recorded a provision for loan losses of $1.0 million for the three months ended March 31, 2014, unchanged from the same period last year.

Non-interest Income: Non-interest income was $960,000 for the three months ended March 31, 2014, compared to $647,000 for the same period last year. The increase was primarily attributable to a $178,000 increase in gain on the sale of investment securities and a $290,000 increase in other fee income off-set by a decline in gain on sale of SBA loans of $178,000.

Non-interest Expense: Non-interest expense increased $815,000 to $4.5 million for the three months ended March 31, 2014, from $3.8 million for the three months ended March 31, 2013. The increase was primarily due to a $375,000 increase in OREO expenses. Also contributing was an increase in compensation and benefits of $185,000 resulting from additional staff, salary increases and increased benefit costs.

Income Taxes: The Company recorded income tax expense of $1.2 million, on income before taxes of $3.6 million for the three months ended March 31, 2014, resulting in an effective tax rate of 32.1%, compared to income tax expense of $1.4 million on income before taxes of $3.6 million for the same period of 2013, resulting in an effective tax rate of 37.9%. The decrease is due to an immaterial over accrual in a prior period that was corrected during the current period.

	For the Three Months Ended March 31,					
	2014			2013		
	Average Balance	Interest Income/ Expense	Yield/ Cost	Average Balance	Interest Income/ Expense	Yield/ Cost
	(Amounts in thousands, except percentages)					
Assets						
Loans	$ 652,666	$ 9,290	5.77 %	$ 630,983	$ 9,045	5.81 %
Investment securities	39,642	293	3.00 %	21,735	205	3.83 %
Federal funds sold and cash equivalents	43,015	23	0.22 %	67,438	42	0.25 %
Total interest-earning assets	735,323	$ 9,606	5.30 %	720,156	$ 9,292	5.13 %
Other assets	77,122			64,417		
Allowance for loan losses	(19,071)			(19,577)		
Total assets	$ 793,374			$ 764,996		
Liabilities and Shareholders' Equity						
Interest bearing deposits:						
NOWs	$ 27,231	$ 34	0.51 %	$ 23,111	$ 33	0.58 %
Money markets	93,797	138	0.60 %	85,352	146	0.69 %
Savings	221,659	341	0.62 %	229,756	415	0.73 %
Time deposits	246,039	643	1.06 %	245,032	724	1.20 %
Brokered certificates of deposit	8,399	21	1.01 %	19,789	56	1.15 %
Total interest-bearing deposits	597,125	1,177	0.80 %	603,040	1,374	0.92 %
Borrowings	65,204	221	1.37 %	43,823	223	2.06 %
Total interest-bearing liabilities	662,329	1,398	0.86 %	646,863	1,597	1.00 %
Non-interest bearing deposits	31,965			28,838		
Other liabilities	4,950			4,227		
Total liabilities	36,915			33,065		
Shareholders' equity	94,130			85,068		
Total liabilities and shareholders' equity	$ 793,374			$ 764,996		
Net interest income		$ 8,208			$ 7,695	
Interest rate spread			4.44 %			4.13 %
Net interest margin			4.53 %			4.33 %

Critical Accounting Policies

In the preparation of our consolidated financial statements, management has adopted various accounting policies that govern the application of accounting principles generally accepted in the United States. The significant accounting policies are described in Note 2 to the Consolidated Financial Statements.

Certain accounting policies involve significant judgments and assumptions by management that have a material impact on the carrying value of certain assets and liabilities. Management considers these accounting policies to be critical accounting policies. The judgments and assumptions used are based on historical experience and other factors, which management believes to be reasonable under the circumstances. Actual results could differ from these judgments and estimates under different conditions, resulting in a change that could have a material impact on the carrying values of assets and liabilities and results of operations.

Allowance for Loan Losses: The allowance for loan losses is considered a critical accounting policy. The allowance for loan losses is the amount estimated by management as necessary to cover losses inherent in the loan portfolio at the balance sheet date. The allowance is established through the provision for loan losses, which is charged to income. Determining the amount of the allowance for loan losses necessarily involves a high degree of judgment.

In evaluating the allowance for loan losses, management considers historical loss factors, the mix of the loan portfolio (types of loans and amounts), geographic and industry concentrations, current national and local economic conditions and other factors related to the collectability of the loan portfolio, including underlying collateral values and estimated future cash flows. All of these estimates are susceptible to significant change. Large groups of smaller balance homogeneous loans, such as residential real estate, home equity loans, and consumer loans, are evaluated in the aggregate under FASB ASC Topic 450, “Accounting for Contingencies”, using historical loss factors adjusted for economic conditions and other qualitative factors which include trends in delinquencies, classified and nonperforming loans, loan concentrations by loan category and by property type, seasonality of the portfolio, internal and external analysis of credit quality, peer group data, loan charge offs, local and national economic conditions and single and total credit exposure. Large balance and/or more complex loans, such as multi-family and commercial real estate loans, commercial business loans, and construction loans are evaluated individually for impairment in accordance with FASB ASC Topic 310 “Receivables”. If a loan is impaired, a portion of the allowance is allocated so that the loan is reported, net, at the present value of estimated future cash flows using the loan’s effective interest rate or at the fair value of collateral if repayment is expected solely from the collateral. This evaluation is inherently subjective, as it requires estimates that are susceptible to significant revision as more information becomes available or as projected events change.

Management reviews the level of the allowance monthly. Although management used the best information available to establish the allowance for loan losses, future adjustments to the allowance may be necessary if economic conditions differ substantially from the assumptions used in making the evaluation. In addition, the FDIC and the Department, as an integral part of their examination process, periodically review the allowance for loan losses. Such agencies may require us to recognize adjustments to the allowance based on judgments about information available to them at the time of their examination. A large loss could deplete the allowance and require increased provisions to replenish the allowance, which would adversely affect earnings.

Other Than Temporary Impairment on Investment Securities: Management periodically performs analyses to determine whether there has been an OTTI in the value of one or more securities. The available for sale securities portfolio is carried at estimated fair value, with any unrealized gains or losses, net of taxes, reported as accumulated other comprehensive income or loss in stockholder's equity. The held to maturity securities portfolio, consisting of debt securities for which there is a positive intent and ability to hold to maturity, is carried at amortized cost. Management conducts a quarterly review and evaluation of the securities portfolio to determine if the value of any security has declined below its cost or amortized cost, and whether such decline is other-than-temporary. If such decline is deemed other-than-temporary, the cost basis of the security is adjusted by writing down the security to estimated fair market value through a charge to current period earnings to the extent that such decline is credit related. All other changes in unrealized gains or losses for investment securities available for sale are recorded, net of tax effect, through other comprehensive income.

Income Taxes: Deferred taxes are provided on a liability method whereby deferred tax assets are recognized for deductible temporary differences and operating loss carryforwards and deferred tax liabilities are recognized for taxable temporary differences. Temporary differences are the difference between the reported amounts of assets and liabilities and their tax bases. Deferred tax assets are reduced by a valuation allowance when, in the opinion of management, it is more likely than not that some portion or all of the deferred tax assets will not be realized. Deferred tax assets and liabilities are adjusted for the effects of changes in tax laws and rates on the date of enactment. Realization of deferred tax assets is dependent on generating sufficient taxable income in the future.

When tax returns are filed, it is highly certain that some positions taken would be sustained upon examination by the taxing authorities, while others are subject to uncertainty about the merits of the position taken or the amount of the position that ultimately would be sustained. The benefit of a tax position is recognized in the financial statements in the period during which, based on all available evidence, management believes it is more likely than not that the position will be sustained upon examination, including the resolution of appeals or litigation processes, if any. The evaluation of a tax position taken is considered by itself and not offset or aggregated with other positions. Tax positions that meet the more likely than not recognition threshold are measured as the largest amount of tax benefit that is more than 50 percent likely of being realized upon settlement with the applicable taxing authority. The portion of benefits associated with tax positions taken that exceeds the amount measured as described above is reflected as a liability for unrecognized tax benefits in the accompanying balance sheet along with any associated interest and penalties that would be payable to the taxing authorities upon examination.

Liquidity: Liquidity describes the ability of the Company to meet the financial obligations that arise out of the ordinary course of business. Liquidity addresses the Company's ability to meet deposit withdrawals on demand or at contractual maturity, to repay borrowings as they mature, and to fund current and planned expenditures. Liquidity is derived from increased repayment and income from interest-earning assets. The loan to deposit ratio was 102.7 % and 104.4% at March 31, 2014 and December 31, 2013, respectively. Funds received from new and existing depositors provided a large source of liquidity for the three month period ended March 31, 2014. The Company seeks to rely primarily on core deposits from customers to provide stable and cost-effective sources of funding to support loan growth. The Company also seeks to augment such deposits with longer term and higher yielding certificates of deposit. To the extent that retail deposits are not adequate to fund customer loan demand, liquidity needs can be met in the short-term funds market. Longer term funding can be obtained through advances from the FHLB. As of March 31, 2014, the Company maintained lines of credit with the FHLB of $93.9 million, of which $43.2 million was outstanding at March 31, 2014.

As of March 31 2014, the Company's investment securities portfolio included $29.7 million of residential mortgage-backed securities that provide cash flow each month. The majority of the investment portfolio is classified as available for sale, is marketable, and is available to meet liquidity needs. The Company's residential real estate portfolio includes loans, which are underwritten to secondary market criteria, and accordingly could be sold in the secondary mortgage market if needed as an additional source of liquidity. The Company's management is not aware of any known trends, demands, commitments or uncertainties that are reasonably likely to result in material changes in liquidity.

Capital: A strong capital position is fundamental to support the continued growth of the Company. The Company and the Bank are subject to various regulatory capital requirements. Regulatory capital is defined in terms of Tier I capital (shareholders' equity as adjusted for unrealized gains or losses on available for sale securities), Tier II capital (which includes a portion of the allowance for loan losses) and total capital (Tier I plus Tier II). Risk-based capital ratios are expressed as a percentage of risk-weighted assets. Risk-weighted assets are determined by assigning various weights to all assets and off-balance sheet associated risk in accordance with regulatory criteria. Regulators have also adopted minimum Tier I leverage ratio standards, which measure the ratio of Tier I capital to total assets.

At March 31, 2014, management believes that the Company and the Bank are "well-capitalized" and in compliance with all applicable regulatory requirements.

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

Not applicable as the Company is a smaller reporting company.

ITEM 4. CONTROLS AND PROCEDURES

Disclosure Controls and Procedures

Evaluation of disclosure controls and procedures. Based on their evaluation of the Company's disclosure controls and procedures (as defined in Rule 13a-15(e) under the Securities Exchange Act of 1934, (the "Exchange Act")), the Company's principal executive officer and principal financial officer have concluded that as of the end of the period covered by this Quarterly Report on Form 10-Q, such disclosure controls and procedures are effective to ensure that information required to be disclosed by the Company in reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported within the required time periods specified in the SEC’s rules and forms.

Internal Controls

Changes in internal control over financial reporting. During the last quarter, there was no change in the Company's internal control over financial reporting that has materially affected, or is reasonably likely to materially affect, the Company's internal control over financial reporting.

PART II. OTHER INFORMATION

ITEM 1. LEGAL PROCEEDINGS

The Company was not a party to any material legal proceedings other than routine matters in the ordinary course of business.

ITEM 1A. RISK FACTORS

Not applicable as the Company is a smaller reporting company.

ITEM 2. UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS

None.

ITEM 3. DEFAULTS UPON SENIOR SECURITIES

None.

ITEM 4. MINE SAFETY DISCLOSURES

Not applicable

ITEM 5. OTHER INFORMATION

None

ITEM 6. EXHIBITS

31.1	Certification of CEO required by Rule 13a-14(a).
31.2	Certification of CFO required by Rule 13a-14(a).
32	Certification required by 18 U.S.C. §1350.
101.INS	XBRL Instance Document *
101.SCH	XBRL Schema Document *
101.CAL	XBRL Calculation Linkbase Document *
101.LAB	XBRL Labels Linkbase Document *
101.PRE	XBRL Presentation Linkbase Document *
101.DEF	XBRL Definition Linkbase Document *

* Submitted as Exhibits 101 to this Form 10-K are documents formatted in XBRL (Extensible Business Reporting Language).

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SIGNATURES

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

PARKE BANCORP, INC.

Date: May 15, 2014	/s/ Vito S. Pantilione Vito S. Pantilione President and Chief Executive Officer (Principal Executive Officer)
Date: May 15, 2014	/s/ John F. Hawkins John F. Hawkins Senior Vice President and Chief Financial Officer (Principal Accounting Officer)