

\*\*E-Filed 9/26/2008\*\*

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**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION**

HORTA, LLC,

Plaintiff,

v.

CITY OF SAN JOSE,

Defendant.

Case Number C 02-4086 JF (RS)

ORDER<sup>1</sup> RE ATTORNEY’S FEES

Pursuant to this Court’s order of August 28, 2008, Plaintiff Horta, LLC (“Horta”) has submitted documentation of its attorney’s fees and costs in the above-titled action and related litigation. The August 28, 2008 order stated that “the Court will award Horta all of its attorney’s fees sought in connection with obtaining the judgment entered January 26, 2005. The Court also will award fifty-percent (50%) of the attorney’s fees Horta incurred subsequent to the judgment.” Order at 7.

Plaintiff has submitted two fee proposals for the period subsequent to the January 26,

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<sup>1</sup> This disposition is not designated for publication and may not be cited.

1 2005 judgment. Both include \$681,427 for all fees incurred prior to January 26, 2005. The first  
2 fee proposal also includes 100% of the total fees incurred after January 25, 2006 in connection  
3 with Plaintiff's motion for attorney's fees (\$108,998), plus 50% of total fees incurred after  
4 January 26, 2005 on collateral matters ( $\$401,998 \times 0.50 = \$200,994$ ). The total amount  
5 requested under the first proposal is \$991,419. The second fee proposal applies a 50%  
6 calculation for all fees incurred after the January 26, 2005 judgment, which equals \$255,943,  
7 including fees incurred in connection with the motion for attorney's fees and costs. The second  
8 fee proposal thus requests a total of \$936,920.

9 The Court's intention was to award fees in connection with the motion for attorney's fees  
10 by applying the same formula as applied to the attorney's fees and costs themselves.  
11 Accordingly, Plaintiff is entitled to \$681,427 for attorney's fees and costs incurred prior to entry  
12 of the original judgment, \$200,994 (or 50% of the requested amount) for attorney's fees and  
13 costs incurred after entry of the original judgment in connection with matters other than the fee  
14 motion, and \$84,171 for the fee motion (which represents the same proportion of Plaintiff's total  
15 request as is awarded with respect to the fees and costs themselves). Thus, the total amount of  
16 the award is \$966,592.

17 IT IS SO ORDERED.

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19 DATED: September 26, 2008

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22 JEREMY FOGEL  
23 United States District Judge  
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1 This Order has been served upon the following persons:

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