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ADV. NUMBER: None

JUDGE: M. A. Mahoney

PARTIES: Food Etc., L.L.C., City of Andalusia

CHAPTER: 11

ATTORNEYS: I. Grodsky, R. P. Reynolds

DATE: 2/25/02

KEY WORDS:

PUBLISHED:

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF ALABAMA

In re

FOOD ETC., L.L.C.,

Case No. 00-12259-MAM

Debtor.

**ORDER AWARDING THE CITY OF ANDALUSIA**  
**AN ADMINISTRATIVE EXPENSE CLAIM**

Irvin Grodsky, Mobile, Alabama, Attorneys for Debtor  
Robert P. Reynolds, Tuscaloosa, Alabama, Attorney for the City of Andalusia

This matter is before the Court on the Motion of the City of Andalusia for award of an administrative expense priority claim. The Court has jurisdiction to hear this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the Order of Reference of the District Court. This is a core proceeding pursuant to 28 U.S.C. § 157(b) and the Court has the authority to enter a final order. For the reasons indicated below, the Court is granting the motion of the City of Andalusia.

The City of Andalusia requested the allowance a of an administrative claim under § 503 and § 365(d)(3) for unpaid postpetition utilities of \$49,313.32 for account number 23-4400-94 and \$709.47 for account number 23-44001-98. The total amount of unpaid postpetition utilities claimed as an administrative expense is \$50,022.79.

The City of Andalusia further requested the award of an administrative claim for unpaid postpetition, prerejection rent for the period of July 2000 though the rejection month of May 2001 in the amount of \$34,122.00 plus unpaid rent for the month of May 2001 in the amount of \$15,510.00. The total amount of postpetition rent claimed as an administrative expense is \$49,632.00.

After reviewing the language of § 363(d)(3) and related case law, Food, Etc. concedes that the City of Andalusia is entitled to the administrative claims requested. The City has expressly agreed to subordinate those administrative claims to the unpaid balance of the allowed administrative claim of Irvin Grodsky, P.C. in an amount not to exceed \$55,000.00 less any amounts previously paid and the claim of counsel to the unsecured Creditors Committee in an amount when allowed not to exceed \$10,000.00.

THEREFORE, IT IS ORDERED:

1. The motion of the City of Andalusia for an administrative expense priority claim in the amount of \$50,022.79 for post-petition utility service is GRANTED.
2. The motion of the City of Andalusia for an administrative expense priority claim in the amount of \$49,632.00 for post-petition rent is GRANTED.
3. The above administrative claims are subordinate to the unpaid balance of the allowed administrative claim of Irvin Grodsky, P.C. in an amount not to exceed \$55,000 less any amounts previously paid and the claim of counsel to the Unsecured Creditors Committee in an amount when allowed not to exceed \$10,000.

Dated: February 25, 2002

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MARGARET A. MAHONEY  
CHIEF BANKRUPTCY JUDGE