

13214 *MA*

RECORDATION NO. Filed 1425

July 27, 1981

AUG 4 1981 - 1 00 PM

INTERSTATE COMMERCE COMMISSION

Interstate Commerce Commission
Attention: Recordation Unit 2303
12th and Constitution, N.W.
Washington, D.C. 20423

Gentlemen:

Enclosed are three executed and acknowledged copies of an Assignment and Security Agreement dated July 27, 1981 by and between

Grantor: The Industrial Development Board of
the City of Chattanooga
Civic Forum
1001 Market Street
Chattanooga, Tennessee 37402

Purchaser: First Tennessee Bank N.A. Chattanooga
701 Market Street
Chattanooga, Tennessee 37402

The Grantor is making an assignment of its security interest in certain collateral, including the rolling stock described on Exhibits "B" and "C" to a Security Agreement dated July 27, 1981 (subject to certain restrictions applicable to Exhibit "C"), in connection with the sale by the Grantor of its \$1,000,000 revenue bond to the Purchaser. Copies of Exhibits "B" and "C" which describe the rolling stock are attached.

Please return an original copy of the submittal, upon its recordation, to:

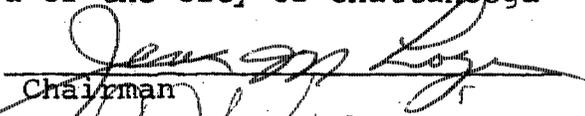
Alfred E. Smith, Jr.
Miller & Martin
Tenth Floor, Volunteer Building
Chattanooga, Tennessee 37402

Interstate Commerce Commission
July 27, 1981
Page Two

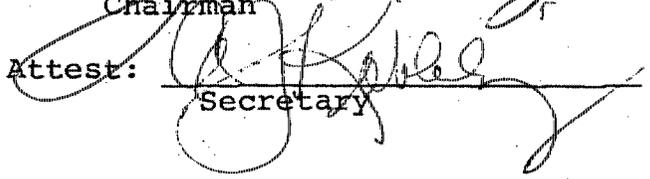
Also enclosed is a check for \$10.00 in payment of your fees.

Sincerely,

The Industrial Development
Board of the City of Chattanooga

By: 

Chairman

Attest: 

Secretary

This Instrument Prepared By:
Alfred E. Smith, Jr.
Miller & Martin
Tenth Floor, Volunteer Bldg.
Chattanooga, Tennessee 37402

13214/A
RECORDATION NO. Filed 1425

AUG 4 1981 - 4 00 PM

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT AND SECURITY AGREEMENT dated as of July 27, 1981, made by THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF CHATTANOOGA, a Tennessee public corporation (the "Grantor"), to FIRST TENNESSEE BANK N.A. CHATTANOOGA, a national banking association (the "Purchaser").

PRELIMINARY STATEMENT:

- (1) Tennessee Valley Railroad Museum, a Tennessee non-profit corporation (the "User") desires to borrow money from the Grantor in order to construct and equip an addition to its museum facility in the City of Chattanooga, Hamilton County, Tennessee.
- (2) The Grantor, in order to lend such money to the User, has entered into a Bond Purchase Agreement (the "Bond Purchase Agreement") of even date herewith with the Purchaser, concurrently with the execution by the Grantor of a Loan Agreement of even date herewith with the User (the "Loan Agreement").
- (3) It is a condition precedent to the purchase of the Bond (as defined in the Bond Purchase Agreement) by the Purchaser that the Loan Agreement and the Note (defined therein) be assigned and pledged, respectively, and that the interest of the Grantor in that certain Deed of Trust recorded at Book _____, Page _____ of the Hamilton County Register's Office (the "Deed of Trust") of even date herewith from the User to Neil B. Cofer, Trustee, and in that certain Security Agreement (the "Security Agreement") of even date herewith from the User to the Grantor, which together grant liens upon and security interests in certain real and personal property of the User to secure payment of the User's obligations under the Loan Agreement and the Note, be assigned, to the Purchaser as security for all amounts payable under the Bond Purchase Agreement and the Bond.

NOW, THEREFORE, in consideration of the premises, and in order to induce the Purchaser to purchase the Bond under the Bond Purchase Agreement, the Grantor hereby agrees as follows:

SECTION 1. Assignment. The Grantor hereby assigns (and, in the case of the Note, pledges) to the Purchaser, and hereby grants to the Purchaser a security interest in, all of the Grantor's right, title and interest (the "Collateral") in and to the Loan Agreement and the Note and in and to the Deed of Trust and the Security Agreement as they may be amended or otherwise modi-

fied from time to time (said Loan Agreement and Note and the Deed of Trust and the Security Agreement as so amended or modified, being the "Assigned Agreements and Note"), including, without limitation, (i) all rights of the Grantor to receive moneys due and to become due under or pursuant to the Assigned Agreements and Note, (ii) all rights of the Grantor to receive proceeds of any insurance, indemnity, warranty or guaranty with respect to the Assigned Agreements and Note, (iii) claims of the Grantor for damages arising out of or for breach of or default under the Assigned Agreements and Note, (iv) the right of the Grantor to terminate the Assigned Agreements and Note, to perform thereunder and to compel performance and otherwise exercise all remedies thereunder, and (v) to the extent not included in the foregoing, all proceeds of any and all of the foregoing Collateral.

SECTION 2. Security for Amounts Payable. This Agreement and the Collateral secures the prompt payment when due, whether at stated maturity, by acceleration or otherwise, of all amounts now or hereafter payable under the Bond Purchase Agreement and the Bond, whether for principal, interest, fees, expenses or otherwise, and all amounts now or hereafter payable under this Agreement (all such amounts payable being the "Amounts Payable").

SECTION 3. Continuation of Duties and Obligations. The exercise by the Purchaser of any of the rights hereunder shall not release the Grantor from any of its duties or obligations under the Assigned Agreements and Note.

SECTION 4. Representations and Warranties. The Grantor represents and warrants as follows:

(a) The Note has been duly endorsed to the order of the Purchaser.

(b) The Grantor owns the Assigned Agreements and Note free and clear of any lien, security interest, charge or encumbrance except for the security interest created by this Agreement. No effective financing statement or other instrument similar in effect covering all or any part of the Collateral is on file in any recording office, except such as may have been filed in favor of the Purchaser relating to this Agreement.

(c) No authorization, approval or other action by, and no notice to or filing with, any governmental authority or regulatory body is required for the grant by the Grantor of the assignment or security interest granted hereby or for the pledge by the Grantor of the Note pursuant to this Agreement or for the execution, delivery or performance of this Agreement by the Grantor.

SECTION 5. Further Assurances. (a) Upon request from time to time by Purchaser or other holder of the Bond, the Grantor will promptly execute and deliver all further instruments and documents, and take all further action, that may be reasonably

necessary, in order to perfect and protect the assignment and security interest granted or purported to be granted hereby or to enable the Purchaser to exercise and enforce its rights and remedies hereunder with respect to any Collateral. In connection with the foregoing, the Grantor will execute such financing or continuation statements, or amendments thereto, and such other instruments or notices, as may be necessary or desirable, or as the Purchaser may request, in order to perfect and preserve the assignment and security interest granted or purported to be granted hereby.

(b) The Grantor authorizes the Purchaser to file one or more financing or continuation statements, and amendments thereto, relative to all or any part of the Collateral without the signature of the Grantor where permitted by law.

SECTION 6. As to the Assigned Agreements and Note.

The Grantor shall not without the written approval of the Purchaser:

(i) Sell, assign (by operation of law or otherwise) or otherwise dispose of any of the Collateral, or create or suffer to exist any lien, security interest or other charge or encumbrance upon or with respect to any of the Collateral to secure debt of any person or entity, except for the assignment and security interest created by this Agreement.

(ii) Cancel or terminate the Assigned Agreements and Note or consent to or accept any cancellation or termination thereof.

(iii) Amend or otherwise modify the Assigned Agreements and Note or give any consent, waiver or approval thereunder.

(iv) Waive any default under or breach of the Assigned Agreements and Note.

(v) Take any other action in connection with the Assigned Agreements which would impair the value of the interest or rights of the Grantor thereunder or which would impair the interest or rights of the Purchaser.

SECTION 7. Payments under the Assigned Agreements and Note.

(a) The Grantor agrees, and has effectively so instructed the User, that all payments due or to become due under the Assigned Agreements and Note shall be made to the Purchaser as provided in Section 1.06 of the Bond Purchase Agreement.

(b) Except as set forth in Section 11, all moneys received or collected by the Purchaser pursuant to subsection (a) above shall be applied to payments due or to become due under the Bond Purchase Agreement and the Bond.

SECTION 8. Purchaser Appointed Attorney-in-Fact. The Grantor hereby irrevocably appoints the Purchaser the Grantor's attorney-in-fact, with full authority in the place and stead of the Grantor, from time to time in the Purchaser's discretion to take any action and to execute any instrument which the Purchaser may deem necessary or advisable to accomplish the purposes of this Agreement, including, without limitation, to ask, demand, collect, sue for, recover, compound, receive and give acquittance and receipt for moneys due and to become due under or in connection with the Assigned Agreements and Note, to receive, endorse, and collect any drafts or other instruments, documents and chattel paper in connection therewith, and to file any claims or take any action or institute any proceedings which the Purchaser may deem to be necessary or desirable for the collection thereof or to enforce compliance with the terms and conditions of the Assigned Agreements and Note.

SECTION 9. Purchaser May Perform. If the Grantor fails to perform any agreement contained herein, the Purchaser may itself perform, or cause performance of, such agreement, and the expense of the Purchaser incurred in connection therewith shall be payable by the User under Section 12(b) hereunder.

SECTION 10. The Purchaser's Duties. The powers conferred on the Purchaser hereunder are solely to protect its interest in the Collateral and as between the Purchaser and the User shall not impose any duty upon it to exercise any such powers. Except for the safe custody of any property in its possession (as to which the Purchaser shall be deemed to have exercised reasonable care if such property is accorded treatment substantially equal to that which the Purchaser accords its own property) and the accounting for moneys actually received by it hereunder, as between the Purchaser and the User, the Purchaser shall have no duty as to any Collateral or as to the taking of any necessary steps to preserve rights against prior parties or any other rights pertaining to any Collateral.

SECTION 11. Remedies. If any Event of Default shall have occurred and be continuing under the Bond Purchase Agreement:

(a) All payments received by the Grantor under or in connection with the Assigned Agreements and Note or otherwise in respect of the Collateral shall be received in trust for the benefit of the Purchaser, shall be segregated from other funds of the Grantor and shall be forthwith paid over to the Purchaser in the same form as so received (with any necessary endorsement);

(b) All payments made under or in connection with the Assigned Agreements and Note or otherwise in respect of the Collateral and received by the Purchaser may, in the discretion of the Purchaser, be held by the Purchaser as collateral for, and/or then or at any time thereafter applied (after payment of any amounts payable to the Purchaser pursuant to Section 12) in whole or in part by the Purchaser

against, all or any part of the Amounts Payable in such order as the Purchaser shall elect. Any surplus of such payments held by the Purchaser and remaining after payment in full of all the Amounts Payable shall be paid over to the User or to whomsoever may be lawfully entitled to receive such surplus; and

(c) The Purchaser may exercise in respect of the Collateral, in addition to other rights and remedies provided for herein or otherwise available to it, all the rights and remedies of a secured party on default under the Uniform Commercial Code (whether or not the Code applies to the affected Collateral).

SECTION 12. Indemnity and Expenses. (a) The User agrees, as evidenced by its execution of the Consent and Agreement attached hereto, to indemnify the Grantor and the Purchaser, respectively, from and against any and all claims, losses and liabilities growing out of or resulting from this Agreement (including, without limitation, enforcement of this Agreement), except claims, losses or liabilities resulting from the gross negligence or willful misconduct of Purchaser or Grantor, as the case may be.

(b) The User will, but only to the extent provided for in the Loan Agreement, pay to the Purchaser upon demand the amount of any and all reasonable expenses, including the reasonable fees and expenses of its counsel and of any experts and agents, which the Purchaser may incur in connection with (i) the administration of this Agreement, (ii) the custody or preservation of, or the collection from or other realization upon, any of the Collateral, (iii) the exercise or enforcement of any of the rights of the Purchaser hereunder or (iv) the failure by the Grantor or the User to perform or observe any of the provisions hereof.

SECTION 13. Amendments; Etc. No amendment or waiver of any provision of this Agreement, nor consent to any departure by the Grantor or the User herefrom, shall in any event be effective unless the same shall be in writing and signed by the Purchaser, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

SECTION 14. Addresses for Notices. All notices and other communications provided for hereunder shall be in writing (including telegraphic communication) and, if to the Grantor, mailed or telegraphed or delivered to it, addressed to it at the Civic Forum, 1001 Market Street, Chattanooga, Tennessee 37402, Attention of Chairman (with copy thereof to Gary D. Lander, Esq., Pioneer Bank Building, Chattanooga, Tennessee 37402); if to the Purchaser, mailed or delivered to it, addressed to it at the address of the Purchaser specified in the Bond Purchase Agreement, or as to either party at such other address as shall be designated by such party in a written notice to each other party complying as to delivery with the terms of this Section. All such notices and other communications shall, when mailed or

telegraphed, respectively, be effective when deposited in the mails or delivered to the telegraph company, respectively, addressed as aforesaid. A copy of any notice or other communication hereunder shall be given by like means to the User at its address at 2202 North Chamberlain Avenue (P. O. Box 5263), Chattanooga, Tennessee 37406.

SECTION 15. Continuing Assignment and Security Interest; Transfer of Bond. This Agreement shall create a continuing assignment of and security interest in the Collateral and shall (i) remain in full force and effect until payment in full of the Amounts Payable, (ii) be binding upon the Grantor, its successors and assigns and (iii) inure to the benefit of the Purchaser and its successors, transferees and assigns. Without limiting the generality of the foregoing clause (iii), the Purchaser may, subject to the provisions of Section 6.05 of the Bond Purchase Agreement, assign or otherwise transfer the Bond held by it to any other person or entity, and such other person or entity shall thereupon become vested with all the benefits in respect thereof granted to the Purchaser herein or otherwise. Upon the payment in full of the Amounts Payable, the security interest granted hereby shall terminate and all rights to the Collateral shall revert to the Grantor. Upon any such termination, the Purchaser will, at the expense of the User, execute and deliver to the Grantor such documents as the Grantor shall reasonably request to evidence such termination.

SECTION 16. Security Interest Absolute. All rights of the Purchaser in the assignment and security interest hereunder, and all obligations of the Grantor hereunder, shall be absolute and unconditional, irrespective of:

(i) any lack of validity or enforceability of the Bond Purchase Agreement, the Bond or any other agreement or instrument relating thereto;

(ii) any change in the time, manner or place of payment of, or in any other term of, all or any of the Amounts Payable, or any other amendment or waiver of or any consent to any departure from the Bond Purchase Agreement or the Bond;

(iii) any exchange, release or non-perfection of any other collateral, or any release or amendment or waiver of or consent to departure from any guaranty, for all or any of the Amounts Payable; or

(iv) any other circumstance which might otherwise constitute a defense available to, or a discharge of, the Grantor in respect of the Amounts Payable or in respect of this Agreement.

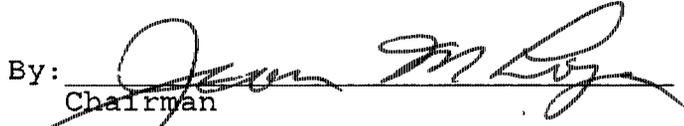
SECTION 17. Governing Law; Terms. This Agreement shall be governed by and construed in accordance with the laws of the State of Tennessee.

SECTION 18. Special Obligations. (a) The Bond constitutes a special obligation of the Board, and the principal of and interest on the Bond, and all other amounts payable pursuant to or under this Agreement or the Bond Purchase Agreement shall be payable solely from the revenues of the Board derived and to be derived pursuant to the Loan Agreement and the Note and from proceeds of the Collateral assigned hereunder. All payments made as provided above shall be applied against the liability of the Board under the Bond, this Agreement or under the Bond Purchase Agreement, as the case may be.

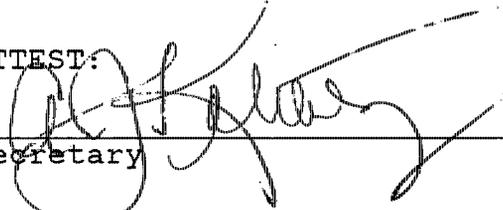
(b) No recourse shall be had for the payment of the principal of or interest on the Bond or for any claim based thereon or upon any obligation, covenant or agreement in this Agreement or the Bond Purchase Agreement, against any past, present or future officer or member of the Board of Directors of the Grantor, under any rule of law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such officer or board member as such is hereby waived and released.

IN WITNESS WHEREOF, the Grantor has caused this Agreement to be duly executed and delivered by its officer thereunto duly authorized as of the date first above written.

THE INDUSTRIAL DEVELOPMENT BOARD
OF THE CITY OF CHATTANOOGA

By: 
Chairman

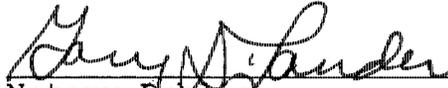
ATTEST:


Secretary

STATE OF TENNESSEE)
COUNTY OF HAMILTON)

Before me, the undersigned authority, a Notary Public within and for the State and County aforesaid, personally appeared Jean M. Logan and A. J. Koblentz, with both of whom I am personally acquainted, and who upon their several oaths acknowledged themselves to be the Chairman and Secretary, respectively, of THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF CHATTANOOGA, the within named bargainor, a corporation, and that they, as such Chairman and Secretary, being authorized so to do, executed the foregoing instrument (ASSIGNMENT AND SECURITY AGREEMENT) for the purpose therein contained by signing the name of said corporation by the said Jean M. Logan as such Chairman, and attesting the same by the said A. J. Koblentz, as such Secretary.

WITNESS my hand and official seal at office in Chattanooga, Tennessee, this 27 day of July, 1981.



Notary Public

(S E A L)

My Commission Expires:

3-20-84

CONSENT AND AGREEMENT

The undersigned hereby acknowledges notice of, and consents to the terms and provisions of, the foregoing Assignment and Security Agreement (the "Agreement," the terms defined therein being used herein as therein defined) from The Industrial Development Board of the City of Chattanooga (the "Grantor") to First Tennessee Bank N.A. Chattanooga (the "Purchaser"), and hereby agrees with the Purchaser that:

(a) The undersigned will make all payments to be made by it under or in connection with the Assigned Agreements and Note directly to the Purchaser at its principal office in Chattanooga, Tennessee, or as otherwise directed by the Purchaser or any subsequent holder of the Note.

(b) All payments referred to in paragraph (a) above shall be made by the undersigned irrespective of and without deduction for, any counterclaim, defense, recoupment, or set-off and shall be final and the undersigned will not seek to recover from the Purchaser for any reason any such payment once made.

(c) The Purchaser shall be entitled to exercise any and all rights of the Grantor under the Assigned Agreements and Note in accordance with the terms of the Agreement, and the undersigned shall comply in all respects with such exercise.

(d) The undersigned will not, without the prior written consent of the Purchaser, (i) cancel or terminate the Assigned Agreements or Note or consent to or accept any cancellation or termination thereof, or (ii) amend or otherwise modify the Assigned Agreements and Note.

In order to induce the Purchaser to purchase the Bond under the Bond Purchase Agreement, the undersigned repeats and reaffirms for the benefit of the Purchaser the representations and warranties made in Article IV of the Loan Agreement.

This Consent and Agreement shall be binding upon the respective successors and assigns of the undersigned and shall inure to the benefit of the Purchaser and its successors, transferees and assigns.

IN WITNESS WHEREOF, the undersigned caused this Consent and Agreement to be executed by its duly authorized officer as of July 27, 1981.

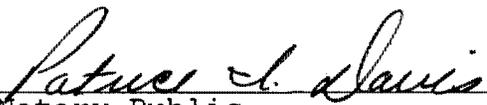
TENNESSEE VALLY RAILROAD MUSEUM

By: Robert M. Soule
Its: PRESIDENT

STATE OF TENNESSEE)
COUNTY OF HAMILTON)

Before me, the undersigned authority, a Notary Public within in the State and County aforesaid, personally appeared Robert M. Soule, with whom I am personally acquainted, and who, upon oath, acknowledged himself to be President of TENNESSEE VALLEY RAILROAD MUSEUM, and that he as such President, being authorized so to do, executed the foregoing instrument for the purpose therein contained, by signing the name of the corporation by himself as President.

WITNESS my hand and seal, at office in Chattanooga, this 23rd day of July, 1980. 61



Notary Public

My commission expires:
My Commission Expires April 17, 1982