

VOLUNTEER STATE BANK  
239 West Main Street  
Hendersonville, Tennessee 37075

March 23, 1989

16261  
RECORDATION NO. FILED 1425

MAR 30 1989 -2 50 PM

INTERSTATE COMMERCE COMMISSION

VIA FEDERAL EXPRESS

9-089A026

Interstate Commerce Commission  
12th and Constitution Avenue, N.W.  
Washington, D. C. 20423  
Attn: Mildred Lee, Room 2303

Dear Ms. Lee:

I have enclosed an original and two copies (with a notary public's affidavit) of the document described below, to be recorded pursuant to § 11303 of Title 49 of the U.S. Code.

This document is a Mortgage and Security Agreement, a primary document, dated March 23, 1989.

The names and addresses of the parties to the document are as follows:

Mortgagor/Debtor: The Southern Junction Company,  
Inc.  
108 First Avenue South  
P. O. Box 25085  
Nashville, Tennessee 37202  
(Mortgage/Debtor is also known  
as the Broadway Dinner Train)

Mortgagee/Secured Party: Volunteer State Bank  
239 West Main Street  
Hendersonville, Tennessee 37075

A description of the equipment covered by the document follows:

All of Debtor's equipment, railroad cars, rolling stock, machinery, parts, replacements, furniture, fixtures, and accessories, both presently existing and hereafter acquired, including, without limitation, the following railroad cars:

MAR 30 2 43 PM '89

MOTOR OPERATING UNIT

<u>Type</u>	<u>Identifying Marks</u>	<u>Road Number</u>
Generator car	Broadway	514
Dining car	Broadway	245
Dining car	Broadway	1494
Dome lounge car	Broadway	504
Dining car	Broadway	1493
Observation car	Broadway	3339
Dining car	Broadway	5609

A fee of \$13.00 is enclosed. Please return the original and any extra copies not needed by the Commission for recordation to

Elizabeth M. Adams, Esq.  
Farris, Warfield & Kanaday  
Seventeenth Floor  
Third National Bank Building  
201 Fourth Avenue North  
Nashville, Tennessee 37219

A short summary of the document to appear in the index follows: Mortgage and Security Agreement between The Southern Junction Company, Inc., 108 First Avenue South, P. O. Box 25085, Nashville, Tennessee 37202, mortgagor/debtor, and Volunteer State Bank, 239 West Main Street, Hendersonville, Tennessee 37075, mortgagee/secured party, dated March 23, 1989, and covering all of The Southern Junction Company, Inc.'s railroad cars and other rolling stock, including, without limitation, seven railroad cars, as follows:

1. One generator car, #514
2. Four dining cars, #245, 1494, 1493, and 5609
3. One dome lounge car, #504
4. One observation car, #3339

Very truly yours,

VOLUNTEER STATE BANK

By:   
Title: VICE PRESIDENT

Interstate Commerce Commission  
Washington, D.C. 20423

4.6.89

OFFICE OF THE SECRETARY

Elizabeth M. Adams, Esq  
Farris Warfield & Kanaday  
Seventeenth Floor  
Third National Building  
201 Fourth Avenue North  
Nashville, Tennessee 37219

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 3.30.89 at 2:50pm, and assigned recordation number(s). 16261

Sincerely yours,

*Narta L. McEneaney*

Secretary

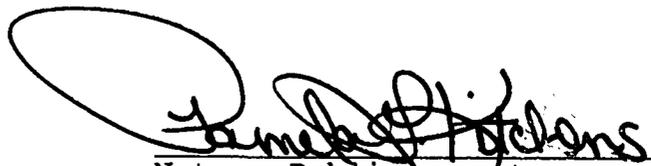
Enclosure(s)

MAR 30 1989 -2 50 PM

CERTIFICATE

INTERSTATE COMMERCE COMMISSION

I, Pamela L. Kitchens, notary public in the County of Davidson, State of Tennessee, hereby certify that I have compared the attached copy of the Mortgage and Security agreement with the original thereof and have found the copy to be complete and identical in all respects to the original document.

  
Notary Public

March 24, 1989  
Date

My Commission Expires: Jan. 23, 1993

MORTGAGE AND SECURITY AGREEMENT

RECORDATION NO 16261 FILED 1423  
MAR 30 1989 -2 50 PM  
TENNESSEE STATE COMMERCE COMMISSION

Mortgagor/Debtor:

Mortgagee/Secured Party:

The Southern Junction  
Company, Inc.  
108 First Avenue South  
P. O. Box 25085  
Nashville, Tennessee 37202

Volunteer State Bank  
239 West Main Street  
Hendersonville, Tennessee 37075

THIS MORTGAGE AND SECURITY AGREEMENT is made this 23rd day of March, 1989 between THE SOUTHERN JUNCTION COMPANY, INC., a Tennessee corporation having its principal place of business at the address shown above, which operates the Broadway Dinner Train in Nashville, Tennessee (hereinafter referred to as "Debtor") and VOLUNTEER STATE BANK, a Tennessee state banking corporation having a place of business at the address shown above (hereinafter referred to as "Secured Party").

W I T N E S S E T H :

WHEREAS, for and in consideration of the execution of this Security Agreement by Debtor, Secured Party is concurrently herewith entering into a loan agreement ("Loan Agreement") with Debtor pursuant to which Secured Party is extending certain credit to Debtor; and

WHEREAS, Secured Party desires to obtain, and Debtor desires to grant, a mortgage lien and security interest in certain property of Debtor, now owned or hereafter acquired, and the proceeds thereof, to secure repayment of all indebtedness described in Section 2 hereof;

NOW, THEREFORE, in consideration of the premises and the mutual promises and covenants hereinafter set forth, the parties hereby agree as follows:

Section 1. Mortgage Lien and Security Interest. As security for the payment of the indebtedness more particularly described in Section 2 of this Security Agreement, Debtor hereby mortgages, assigns and grants to Secured Party a mortgage lien and a security interest in and to the following described property (hereinafter sometimes referred to as the "Collateral"):

- (a) All of Debtor's equipment, railroad cars, rolling stock, machinery, parts, replacements, furniture, fixtures, accessories, improvements, tools, building products, building equipment, and substitutions both presently existing and hereafter acquired, including, without limitation, all property located on and/or used in connection with certain real property owned by The Metropolitan Government of Nashville and Davidson County, Tennessee ("Metro"), located in or near Riverfront Park, Nashville, Tennessee, which real property is leased to

Debtor, and including, without limitation, the following railroad cars, all of which have the A.A.R. mechanical designation lightweight passenger car:

<u>Type</u>	<u>Manufacturer</u>	<u>Identifying Marks</u>	<u>Road Number</u>
Generator car	Budd	Broadway	514
Dining car	Pullman	Broadway	245
Dining car	Budd	Broadway	1494
Dome lounge car	Pullman	Broadway	504
Dining car	Budd	Broadway	1493
Observation car	Budd	Broadway	3339
Dining car	Budd	Broadway	5609

(b) All other railroad cars and other rolling stock currently owned by Debtor or hereafter acquired by Debtor, and all other property (including without limitation all rolling stock used in connection with Debtor's Broadway Dinner Train) substituted for any of such property described herein or above;

(c) All contract rights, lease rights, accounts, choses in action, instruments, and other general intangibles arising in any way in connection with (i) the real property leased to Debtor by Metro or (ii) the following contracts, leases and agreements:

(A) That certain Agreement between the Nashville and Eastern Railroad Corporation and Debtor, dated March 14, 1988, including all amendments, modifications and/or extensions thereof; and/or

(B) All lease agreements between The Metropolitan Government of Nashville and Davidson County, Tennessee, and Debtor, concerning or affecting real property located in or near Riverfront Park in Nashville, Tennessee, whether such leases are oral and/or as they may hereinafter be reduced to writing, including all amendments, modifications and extensions thereof; and

(d) All proceeds (including insurance proceeds) or products attributable to or arising from any of the foregoing Collateral.

Section 2. Indebtedness Secured Hereby. The mortgage lien and security interest granted herein by Debtor secures and shall secure:

(a) Payment of an indebtedness evidenced by a promissory note of even date herewith, executed by Debtor payable to Secured Party, and any and all extensions, modifications, amendments, renewals and/or increases thereto or thereof (collectively herein, the "Note");

(b) Payment of all other obligations, liabilities and indebtedness owed by Debtor to Secured Party both now existing or hereafter contracted or arising, joint or several, due or to become due, absolute or contingent, direct or indirect, liquidated and unliquidated, and all renewals, extensions or modifications thereof and whether incurred or given as maker, endorser, guarantor, customer, or otherwise;

(c) Payment of all money or property heretofore or in the future advanced to or for the account of, or on behalf of, Debtor;

(d) Payment of all costs and expenses incurred by Secured Party in enforcing or protecting its rights with respect to the Collateral or the indebtedness secured by the Collateral, including, but not limited to, reasonable attorneys fees;

(e) Payment of all future advances made by Secured Party for taxes, levies, insurance and/or repairs to or maintenance of the Collateral.

For purposes of this Security Agreement, all such obligations secured by the Collateral shall be referred to as "Indebtedness."

Section 3. Debtor's Representations to Secured Party. Debtor hereby represents the following facts to be true and correct as of the date hereof:

(a) Debtor is the true and lawful owner of the Collateral;

(b) Debtor has a good right to grant a mortgage lien on and security interest in the Collateral;

(c) There are no advances, liens, security interests or encumbrances against any of the Collateral;

(d) All of Debtor's representations with respect to the Collateral contained in the Loan Agreement are incorporated herein by reference and made a part hereof.

Section 4. Debtor's Warranties and Covenants of Debtor to Secured Party. Debtor hereby warrants, covenants and agrees that, until the Indebtedness secured hereby shall have been paid in full or unless it shall have received the prior written consent of the Secured Party:

Protection and Use of Collateral. Debtor will keep the Collateral free from any adverse lien, security interest, or encumbrance (other than the mortgage lien and the security interest granted herein) and in good order and

repair and will not waste or destroy the Collateral or any part thereof; Debtor will not use the Collateral in violation of any regulations, statute or ordinance, whether federal, state or local or of any judgments, citations, decrees or orders of any judicial or administrative authority, whether federal, state or local;

Sale or Impairment of Collateral. Debtor will not sell or offer to sell or otherwise transfer, dispose of or encumber the Collateral, or any interest therein, without the prior written consent of Secured Party, or in any manner sell, encumber or impair any of its assets so as to substantially diminish the value of the Collateral;

Maintain Insurance. Debtor will maintain insurance, in form, amounts, and with companies in all respects satisfactory to Secured Party, insuring the Collateral against loss from fire, theft, and any other risks determined by Secured Party, and shall obtain liability insurance in form, amounts, and with a company acceptable to Secured Party and/or required by any law, regulation or agreement or lease between Debtor and any other party. Secured Party shall be designated as an additional insured under the terms of the policies evidencing such insurance and shall receive a minimum of 30 days written cancellation notice from the company or insurer issuing such policy or policies. If Debtor fails to furnish said insurance or fails to pay the premiums therefor, Secured Party may do so or may obtain insurance of its interest only, adding the amount of any such premium thereof to the other amounts secured hereby; provided, however, Secured Party is under no obligation or duty to pay such premiums or obtain or maintain such insurance. Debtor hereby assigns to Secured Party any return or unearned premiums which may be due upon cancellation of any of said policies for any reason whatsoever, and directs all insurers to pay Secured Party any amount so due, unless the Indebtedness has been previously fully satisfied. In order to collect such return or unearned premiums or the benefits of such insurance, the Secured Party acting through any officer, agent or employee is hereby appointed Debtor's attorney-in-fact to endorse any draft or check which may be payable to Debtor. Any balance of insurance proceeds remaining after payment in full of all amounts owing to Secured Party shall be paid to Debtor. Such return or unearned insurance premium or the benefits of such insurance, may, at Secured Party's option, be used for other insurance or to repair, restore, or replace the Collateral, or for payment of any costs or claims, or may be applied to any Indebtedness secured hereunder, and if the Indebtedness is payable in installments, then to the installments in inverse order, satisfying the final maturing installments first;

Indemnification. Debtor will and does hereby agree to indemnify and hold Secured Party harmless against all claims arising out of or in connection with Debtor's ownership or use of the Collateral;

Removal of Collateral. Other than as required in connection with the normal operations of the Debtor's Broadway Dinner Train, Debtor will not permit any of the Collateral to be moved from its present location, and in no event will Debtor allow any of the Collateral to be moved from the State of Tennessee. Debtor will promptly notify Secured Party of any change of Debtor's place of business or in the location of the Collateral within the state where it is presently located;

Tax Liens, Etc. Debtor agrees to pay all taxes or other liens taking priority over the mortgage lien and security interest created in this Mortgage and Security Agreement and should default be made in the payment of same Debtor agrees to give Secured Party prompt notice of such default and Secured Party, at its option, may pay the same, which shall then become part of the Indebtedness secured hereby;

Execute Additional Documents. Debtor will sign and execute alone or with Secured Party any financing statement, transmittal letter, agreement, or other documents required from time to time by Lender to be executed or procure any documents and pay all necessary costs to protect the mortgage lien and security interest under this Mortgage and Security Agreement against the interest of third persons. Debtor will pay the costs of preparation and filing the same in all public offices wherever filing is deemed by Secured Party to be necessary or desirable. Secured Party is hereby appointed Debtor's attorney-in-fact to do all acts and things which Secured Party may deem necessary to perfect and/or continue the perfection of the mortgage lien and security interest created by this Mortgage and Security Agreement and to protect the Collateral. Debtor further agrees to pay all costs and fees for filing any termination statements; and

Maintain Present Corporate Name and Form. Debtor shall not change its corporate name or materially amend the Company's articles of incorporation or change in any manner the primary character of its business.

Section 5. Debtor's Use of Collateral. Prior to the occurrence of an Event of Default (as hereinafter defined) Debtor may use the Collateral in the ordinary course of Debtor's business; provided, upon the occurrence of an Event of Default Debtor's right to so use the Collateral shall terminate until further written notice from the Secured Party.

Section 6. Events of Default. The term "Event of Default", whenever used in this Security Agreement, shall mean any one or more of the following events or conditions:

(a) the occurrence of an Event of Default under the Loan Agreement in its present form and as it may later be amended from time to time;

(b) loss or destruction which is not fully insured, or unauthorized sale, transfer or disposition (without the prior written consent of Secured Party) or unauthorized encumbrance of any of the Collateral;

(c) the failure of Debtor to comply with any other duty or obligation described in this Mortgage and Security Agreement.

Section 7. Remedies. Secured Party shall have the following remedies hereunder:

Acceleration and Foreclosure, Etc. Upon the happening of any Event of Default specified in Section 6 above, and at any time thereafter, at the option of the Secured Party, any and all Indebtedness secured hereby shall become immediately due and payable without presentment or demand or any notice to Debtor or any other person obligated thereon and Secured Party shall have and may exercise any or all of the rights and remedies of a secured party under the Uniform Commercial Code as adopted in the State of Tennessee, and as otherwise contractually granted herein or under any other applicable law or under any other agreement executed by Debtor in favor of Secured Party, including, without limitation, the right and power to sell, at public or private sale or sales, or otherwise dispose of or utilize such portion of the Collateral and any part or parts thereof in any manner authorized or permitted under said Uniform Commercial Code after default by a Debtor, and to apply the proceeds thereof toward payment of any costs and expenses and attorneys' fees and legal expenses thereby incurred by Secured Party and toward payment of the obligations in such order or manner as Secured Party may elect. As an essential part of the bargained-for consideration running to the Secured Party, Debtor hereby expressly grants to Secured Party the contractual right to purchase any or all of the Collateral at private sale any time after 10 days notice of such sale shall have been sent to Debtor by Secured Party.

Waiver of Notice, Etc. Debtor agrees that if such notice of default is mailed, postage prepaid, or sent by telegram, charges prepaid, to Debtor at the address stated at the beginning of this document at least 10 days before the time of the proposed sale or disposition, such notice

shall be deemed reasonable and shall fully satisfy any requirement of giving of notice, and the proposed sale may take place any time after such 10 day period without the necessity of sending another notice to Debtor. Secured Party may postpone and reschedule any proposed sale at its option without the necessity of giving Debtor further notice of such fact as long as the rescheduled sale occurs within 60 days of the originally scheduled sale.

Method of Sale of Collateral Approved. All recitals in any instrument of assignment or any other document or paper executed by Secured Party incident to sale, transfer, assignment or other disposition or utilization of the Collateral or any part thereof hereunder shall be sufficient to establish full legal propriety of the sale or other action taken by Secured Party or of any fact, condition or thing incident thereto and all prerequisites of such sale or other action shall be presumed conclusively to have been performed or to have occurred.

Preservation of Collateral and Proceeds. In addition to the foregoing provisions, following an Event of Default, and upon Secured Party's demand, Debtor agrees to assemble the Collateral at its usual place of business and make same available to Secured Party immediately.

Section 8. Secured Party's Powers and Duties with Respect to Collateral.

(a) Secured Party shall be under no duty to keep any of the Collateral same insured, or to do anything for the protection thereof.

(b) Not limiting the generality of any of the foregoing but in amplification of the same, Secured Party shall be in no way liable to or responsible for any diminution in the value of the Collateral from any cause whatsoever, other than the active misfeasance of Secured Party.

(c) Debtor agrees to pay all taxes, charges, transfer fees and assessments against the Collateral and to do all things necessary to preserve and maintain the value and condition thereof, and on the failure of Debtor to so do, Secured Party may, after giving Debtor written notice of its intention to do so, make such payments and advance such sums on account thereof as Secured Party, in Secured Party's discretion, deems desirable. Debtor agrees to reimburse Secured Party immediately upon demand for all such payments and advances plus interest thereon at the rate of 18% per annum or at such lesser rate as may be the maximum rate allowed by applicable law, repayment of all of which is secured by this Mortgage and Security Agreement and the Collateral.

(d) Secured Party, or any of its agents, shall have the right to call at reasonable times at the Debtor's place or places of business at intervals to be determined by Secured Party, and without hindrance or delay, to inspect, audit, check, and make extracts from the books, records, journals, orders, receipts, correspondence, and other data relating to the Debtor's operations.

Section 9. General Authority. Effective immediately, but exercisable by Secured Party only upon the occurrence of an Event of Default, Debtor hereby irrevocably appoints Secured Party as Debtor's true and lawful attorney-in-fact with full power of substitution, in Secured Party's name or Debtor's name or otherwise, for Secured Party's sole use and benefit, but at Debtor's cost and expense, to exercise at any time and from time to time all or any of the following powers with respect to all or any of the Collateral:

(a) to demand, sue for collection, receive and give acquittance for any and all monies due or to become due upon or by virtue thereof;

(b) to receive, take, endorse, assign and deliver any and all checks, notes, drafts, documents and other property taken or received by Secured Party in connection therewith; and

(c) to extend the time of payment and to make any allowance and other adjustments with reference thereto;

Provided, however, the exercise by Secured Party of or failure to so exercise any such authority shall in no manner affect Debtor's liability to Secured Party hereunder or in connection with the Indebtedness; and provided further, that Secured Party shall be under no obligation or duty to exercise any of the powers hereby conferred upon it and it shall have no liability for any act or failure to act in connection with any of the Collateral. Secured Party shall not be bound to take any steps necessary to preserve rights in any instrument, contract or lease against prior parties.

Section 10. Survival of Agreements, Representations and Warranties. All agreements, representations and warranties contained herein or made in writing by or on behalf of Debtor in connection with the transactions contemplated hereby shall survive the execution and delivery of this Mortgage and Security Agreement, any investigation at any time made by Secured Party or on its behalf, and the acquisition and disposition of the Indebtedness. All statements contained in any certificate or other instrument delivered by or on behalf of Debtor pursuant hereto or in connection with the transactions contemplated hereby shall be deemed representations and warranties by Debtor hereunder.

Section 11. Dealings With Debtor. It is expressly understood and agreed that notwithstanding anything else contained in this Mortgage and Security Agreement, Secured Party may, for all purposes hereof deal solely with Debtor in connection therewith, and nothing herein or in the Loan Agreement shall be construed so as to require dealings with, consent of, or notice to any other parties or persons.

Section 12. Agreement Not Exclusive Remedy. This Agreement shall not prejudice the right of Secured Party, at its option, to enforce collection of the Indebtedness by suit or in any lawful manner. If Secured Party has additional security, then it may resort to such other security for the payment of the Indebtedness secured hereby. No right or remedy in this Mortgage and Security Agreement or in any instrument evidencing the Indebtedness is intended to be exclusive of any other right or remedy, but every such right or remedy shall be cumulative and shall be in addition to every other right or remedy herein or therein conferred, or now or hereafter existing, by contract, at law or in equity or by statute.

Section 13. Non-Waiver Provision. No delay or omission by Secured Party to exercise any right or remedy shall impair such right or remedy or any other right or remedy or shall be construed to be a waiver of any Event of Default or an acquiescence therein; and every right and remedy herein conferred or now or hereafter existing by contract or at law or in equity or by statute may be exercised separately or concurrently and in such order and as often as may be deemed expedient by Secured Party. Not limiting the generality of the foregoing, pursuit or exercise of any right or remedy conferred herein, or by law or in equity or by statute, shall not be, and shall not be considered to be, an election against, waiver or relinquishment of, any other right or remedy.

Section 14. Severability. The invalidity or unenforceability of any of the rights or remedies herein provided in any jurisdiction shall not in any way affect the right to the enforcement in such jurisdiction or elsewhere of any of the other rights or remedies herein provided.

Section 15. Applicable Law. This Mortgage and Security Agreement is being delivered and is intended to be performed in the State of Tennessee and shall be construed and enforced in accordance with and governed by the substantive law of such State.

Section 16. Binding Agreement. This Mortgage and Security Agreement shall be binding upon and inure to the benefit of the successors, representatives and assigns of the parties hereto.

Section 17. Entire Agreement. This Agreement contains the entire Mortgage and Security Agreement between the Secured Party and the Debtor and supersedes all prior agreements and understandings relating to the subject matter hereof, except as may be contained in the Loan Agreement and the other Loan Documents delivered in connection therewith. It may not be

changed or terminated orally, but may only be changed by an agreement in writing signed by the party or parties against whom enforcement of any waiver, change, modification, extension, discharge or termination is sought.

Section 18. Captions. The captions of this Mortgage and Security Agreement are for the purpose of reference only, and shall not limit or otherwise affect any of the terms hereof.

Section 19. Notices. All notices, certificates, requests, consents and other communications hereunder shall be in writing and shall be mailed by first class registered or certified mail, postage prepaid, or sent by telegram, charges prepaid, as follows:

(a) If to Secured Party, to the address as it appears at the beginning of this Mortgage and Security Agreement, to the attention of Steve Gregory;

(b) If to the Debtor, to the address as it appears at the beginning of the Mortgage and Security Agreement;

or at such other address as either party may designate by written notice to the other party in accordance herewith.

IN WITNESS WHEREOF, this Mortgage and Security Agreement has been executed and delivered as of the date first above written.

DEBTOR:

THE SOUTHERN JUNCTION COMPANY,  
INC.

By: Robert Hensley  
Title: Pres.

SECURED PARTY:

VOLUNTEER STATE BANK

By: Steve Gregory  
Title: VICE PRESIDENT

STATE OF TENNESSEE )  
COUNTY OF DAVIDSON )

Before me, Thomas E. Hensley, a Notary Public of said Davidson County and Tennessee State, personally appeared Robert O. Hensley, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence) and who, upon oath, acknowledged him self to be President (or other officer authorized to execute the instrument) of THE SOUTHERN JUNCTION COMPANY, INC. the within named bargainer, a corporation, and that he as such President executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by him self as President.

Witness my hand and seal, at Office in Nashville, this 23rd day of March, 1989.

Thomas E. Hensley  
Notary Public

My Commission Expires: July 15 1991

STATE OF TENNESSEE )  
COUNTY OF DAVIDSON )

Before me, Thomas E. Hensley, a Notary Public of said Davidson County and Tennessee State, personally appeared Steve Gregory, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence) and who, upon oath, acknowledged him self to be Vice President (or other officer authorized to execute the instrument) of VOLUNTEER STATE BANK, the within named bargainer, a Tennessee state banking corporation, and that he as such Vice President executed the foregoing instrument for the purposes therein contained, by signing the name of the Tennessee state banking corporation by him self as Vice President.

Witness my hand and seal, at Office in Nashville, this 23rd day of March, 1989.

Thomas E. Hensley  
Notary Public

My Commission Expires: July 15 1991

2198S/03-22-89