

NEW  
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7-22-94

PERPETUAL EASEMENT AGREEMENT 5880415  
7/12/94 08:58 AM 28.00  
KATIE L. DIXON  
RECORDER, SALT LAKE COUNTY, UTAH  
PARAMOUNT TITLE  
REC BY: S WEST DEPUTY - WI

5880415

File No. 55

This Perpetual Easement Agreement ("Easement") is entered into this 13 day of June, 1994, by and between BANJ INVESTMENT COMPANY ("Banj"), TIRE WORLD INVESTMENT, LLC., a limited liability company to be formed (individually and collectively "Grantor"), and REAGAN OUTDOOR ADVERTISING OR ITS ASSIGNS ("Grantee").

WHEREAS, by agreements dated November 13, 1984, and recorded with the office of the Salt Lake County Recorder on November 15, 1984, as entry numbers 4016352 and 4016353 in book 5606, at pages 2697, et seq., Grantee leases for outdoor advertising purposes certain property (the "property") located in Salt Lake County, Utah, more particularly described as:

Beginning at the Northeast corner of Lot 13, WAHOO SUBDIVISION, a part of Lot 6, Block 9, 5 Acre Plat "A", Big Field Survey, and running thence East 301.0 feet; thence South 110.5 feet; thence East 33.0 feet; thence South 143.3 feet to the Northwest line of the Denver and Rio Grande Western Railroad; thence Southwesterly along said line 499 feet to the intersection with the East line of the I-15 Freeway; thence North-Northeasterly along said line 598.18 feet to the point of beginning. Contains 3.24 acres.

WHEREAS, said leases contain a right of first refusal in favor of Grantee, which right of first refusal Grantee has agreed to waive now, and in the future, to allow Grantor to purchase and sell the property; and

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WHEREAS, such waiver from Grantee to Grantor of the right of first refusal is conditioned upon this Easement becoming effective and the refund to Grantee of the \$5,000.00 deposited by it as earnest money; and

WHEREAS, this Easement shall replace the above-described outdoor advertising lease agreements upon the execution and recordation of this easement agreement.

NOW, THEREFORE, based upon good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged by Grantor, Grantor for itself and its successors and assigns in the property hereby agrees as follows:

1. Grantor, on behalf of itself, its heirs, successors and assigns, hereby grants to Grantee and its successors and assigns a perpetual easement in the property for the purpose of owning, maintaining, replacing, servicing or otherwise dealing with the two outdoor advertising structures in their present locations that are currently located on the property; including such necessary devices, connections, supports and appurtenances as may be desired by Grantee.

2. Grantee waives the right of first refusal found in the lease agreements dated November 13, 1984, and recorded on November 15, 1984, as entry numbers 4016352 and 4016353 in book 5606, at pages 2697, et seq., in the office of the Salt Lake County Recorder. Banj agrees to refund to Grantee the \$5,000.00 earnest money deposited by Grantee earlier.

3. The lease agreements will terminate upon the execution and recordation of this easement agreement.

4. Grantee shall pay to Grantor the sum of Twelve Thousand Dollars (\$12,000.00) annually, payable monthly, for a period of ten (10) years and ten (10) years only immediately following the execution of this agreement.

5. In effectuation of the intent of this agreement that Grantee will continue to have right and access to the property for the purpose of conducting outdoor advertising, Grantor irrevocably covenants to allow the continued operation of the outdoor advertising signs and agrees not to take any actions which would reduce or curtail the effectiveness of the use of the property for outdoor advertising purposes, including without limitation the following:

(a) Erecting other signs on the property, specifically a business, or on premise sign, for Grantor's use higher than thirty-five feet (35'), which could curtail the visibility of Grantee's signs from any surrounding street or freeway;

(b) Installing or constructing buildings, fences or any other structures, which curtail the visibility of the signs or restrict access thereto;

(c) Seeking to change zoning which would prohibit signs on the property;

(d) Contesting any variances, petitions or applications sought by Grantee relating to the use of the property for outdoor advertising;

(e) Parking cars or allowing cars to be parked in such a way as to limit access to outdoor advertising structures for maintenance, servicing, replacement or repair of such structures; and

(f) Storing any items on the property or allowing the accumulation of garbage on the property such that accessibility to the signs is curtailed.

6. In connection with the foregoing, Grantor hereby affirmatively grants Grantee full right of ingress and egress to, on, over, under and across the property to access the two outdoor advertising sign locations.

7. If, as a result of governmental action, administration or regulation, a) the signs are required to be relocated, or b) the signs must be relocated in order for the signs' purposes to be reasonably continued, then, and in that event, Grantee may relocate either sign, or both of them, as necessary. Such relocation shall be in conformity with the following conditions:

1) Such relocation shall be at Grantee's sole expense;

2) Such relocation shall be along the perimeter of the property. The perimeter is defined as being as close as reasonably possible to the outside boundaries of the property while keeping as far from the property center as reasonably possible.

3) In the event that the governmental action, administration or regulation results in only one sign being left on the property, and this one sign must be relocated, then,

notwithstanding the provisions regarding relocation along the perimeter of the property, this sign may be relocated to any open-space area on the property or, if not unreasonable, through a building if there is no open-space area that can accommodate the sign while maintaining the sign's advertising value. Such sign construction shall be done in such a way so as to not interfere with Grantor's use and enjoyment of the building nor to weaken or damage the structure. An open-space area is defined as a location that is not covered by a building or other man-made edifice. It does include, without limitation, parking or open storage areas whether paved or not.

4) Such relocation shall comply with all federal, state and local governmental regulations and requirements.

8. Grantor hereby grants unto Grantee the right to remove obstructions to the visibility of or access to the outdoor advertising structures, including without limitation the right to trim and remove trees, to remove any other items obstructing access to the sign, and to take such other actions as necessary to be able to use the property for outdoor advertising purposes.

9. Grantee may terminate this agreement at any time by giving Grantor thirty (30) days written notice and by removing its outdoor advertising signs from the property and reconveying the perpetual easement to the Grantor.

10. If the said space becomes obstructed so as to lessen the advertising value of any of Grantee's signs erected on the premises, or if traffic is diverted or reduced, or if the use of

any such signs is prevented or restricted by law, or if a required building permit for necessary erection or modification is refused, Grantee may, at its option, either terminate this agreement or, reduce the payment required under the provisions of paragraph 2 to Five Dollars (\$5.00) if such condition occurs during any period in which payment is due, for so long as such condition continues to exist. Any reduction in payment shall be in effect and continue only for that period of time during which the Grantee has no sign on the property. Thereafter, upon the Grantee erecting a sign on the property, the payments required in paragraph 2 above shall be automatically reinstated, and shall continue to be made by the Grantee until the Grantor has received a total of 120 monthly payments of \$1000 each from the Grantee.

11. The Easement shall be superior to any mortgage or encumbrance placed or allowed to be placed against the property by Grantor.

12. Grantor will have no right to share in the proceeds from the condemnation of any outdoor advertising structures on the property other than to seek just compensation for the loss of the payment referred to in paragraph 2 of this agreement, if any is still due. In the event of condemnation of the property such that the use of the property is curtailed or destroyed for the purpose of placing thereon outdoor advertising structures, Grantee shall have claim to a portion of said condemnation proceeds relating to the loss of the use of the property for said outdoor advertising structures.

13. Grantee may file with the office of the Salt Lake County Recorder a Request for Notice that copies of any notices of default and/or notices of sale effecting the property be provided to Grantee. Grantor agrees to advise Grantee, in writing, of any pending foreclosure or sale proceedings, including tax sales, affecting the property.

14. Grantor also grants unto Grantee the right to pay any taxes relating to the property in order to prevent a tax sale or to make any payments to prevent the foreclosure of any liens or encumbrances against the property or to redeem the property from same. In the event of payment of such taxes, liens or redemption by Grantee, Grantee shall be entitled to recover the amount of such taxes and other payments from Grantor, together with interest thereon at the higher interest rate of either twelve percent (12%) or five percent (5%) over and above the average ten-year Treasury Bill rate from the time of payment by Grantee until repayment thereof by Grantor. In the event Grantee prevents a foreclosure action or sale to satisfy liens or encumbrances on the property by any lien payment described above, or redeems the property therefrom, Grantee shall succeed to all of the rights and interests of the original lienholder. Grantee shall have the same rights as the original lienholder to initiate a foreclosure of the property to recover those payments made, to include Grantee's costs, expenses, fees and attorneys' fees.

15. Nothing herein shall prevent Grantor from constructing a fence around the property, provided that Grantee is provided

access to the outdoor advertising structures, and provided the fence itself does not impair the useability of the structures.

16. This perpetual easement shall constitute a covenant running with the land and shall be binding upon Grantor and its successors and assigns in the property and the provisions hereof shall be specifically enforceable against Grantor, its successors and assigns regardless of whether such parties have actual notice of the provisions hereof. Without limiting the foregoing, Grantee shall have all remedies available at law or in equity to enforce this agreement, including suits for damages and/or specific performance. In the event Grantee seeks and injunction based upon Grantor's breach it is specifically agreed that no bond shall be required.

17. In enforcing its rights under this easement agreement Grantee shall not be liable to the Grantor for any consequential or exemplary damages arising therefrom.

18. Grantor agrees that Grantee may transfer, sell or assign its rights under this instrument to any person whatsoever without notice to Grantor.

19. The terms "Grantor" and "Grantee" shall be construed to apply with equal force to the heirs, personal representative, successors and assigns of Grantor and Grantee hereto.

DATED the day and year first above written.

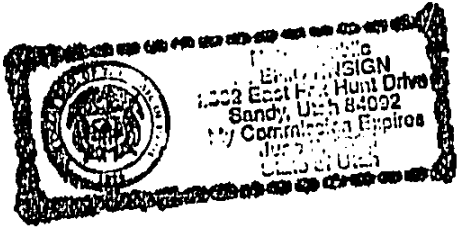
GRANTOR  
BANJ INVESTMENT COMPANY

By Richard L. Barnes  
Its Gen. Partner

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TIRE WORLD INVESTMENT, LLC.

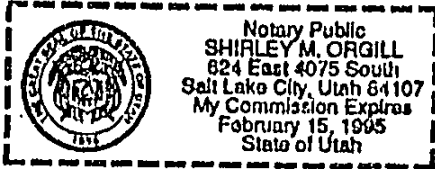
By \_\_\_\_\_  
Its \_\_\_\_\_

GRANTEE  
REAGAN OUTDOOR ADVERTISING CO.  
OR ITS ASSIGNS

By William K. Reagan  
Its President

STATE OF UTAH            )  
                                      : ss.  
County of Salt Lake )

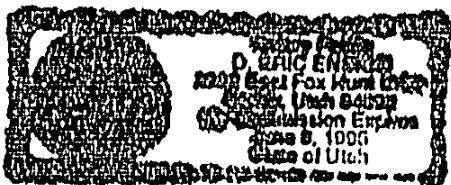
On this 11<sup>th</sup> day of June, 1994, personally appeared before me William K. Reagan, agent for Grantee in the foregoing instrument, and he duly acknowledged to me that he executed the same.



Shirley M. Orgill  
NOTARY PUBLIC  
State of Utah

STATE OF UTAH            )  
                                      : ss.  
County of Salt Lake )

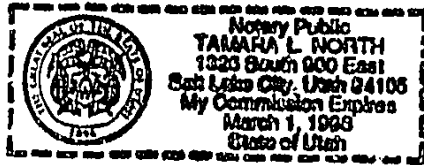
On this 13 day of June, 1994, personally appeared before me Richard L. Warner, agent for Grantor Banj Investment Company in the foregoing instrument, and he duly acknowledged to me that he executed the same.



D. Eric Ensign  
NOTARY PUBLIC  
State of Utah

STATE OF UTAH            )  
                                  ): ss.  
County of Salt Lake )

On this 13<sup>th</sup> day of June, 1994, personally appeared before me Steve Taylor, agent for Grantor Tire World, Investment, LLC., in the foregoing instrument, and he duly acknowledged to me that he executed the same.



Tamara L. North  
NOTARY PUBLIC  
State of Utah