

**HobbyTown Unlimited Inc. DBA HobbyTown USA® Model Car Race Track  
License Agreement**

THIS LICENSE is made and entered into this 18th day of March, 2005 by and between the City of Lincoln, Nebraska, a municipal corporation, hereinafter referred to as "City", and HobbyTown Unlimited Inc., a Nebraska corporation, hereinafter referred to as the "Licensee".

WHEREAS, the City is the owner of real property located in Section 14, Township 10 North, Range 6 East of the 6th P.M., Lancaster County, Nebraska, more particularly described as part of Lot 89, Irregular Tract, known as the land north of Oak Lake Park; and

WHEREAS, the City Parks and Recreation Department has considered licensing the land for the development and maintenance of a model car race track complex while retaining its control over the facility; and

WHEREAS, the Licensee has expressed an interest in the development, maintenance, and use of the land; and

WHEREAS, the City, through its Parks and Recreation Department, shall maintain ultimate use and control over the land.

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

1. Term. The City hereby grants to the Licensee a license for a period of ten (10) years commencing on March 1, 2005 and ending February 28, 2015, for a non-exclusive use, except as described in this Agreement and subject to the conditions herein enumerated. The general area subject to the license is depicted on Exhibit "A" which is made a part of this Agreement as if set out completely.

2. Improvements.

A. The Licensee agrees to maintain and mow around the complex, prepare the land for reseeding of any areas damaged by the landscaping activities, and spread grass seed approved by the City and purchased by the Licensee over those areas. Such maintenance and mowing obligations shall continue throughout the term of this License Agreement regardless of whether the Licensee is using the complex at the time.

B. The Licensee, at its option, may construct a fence around the perimeter of the area subject to this License Agreement in a location and of materials approved by the Urban Design Committee and the Director of Parks and Recreation.

C. Prior to the construction of any improvements or appurtenances, the Licensee shall submit the proposed improvement to the Director of Parks and Recreation for approval of design, location and any public use issues. Upon approval and the securing of all required permits and licenses, the Licensee may commence construction of the improvement or appurtenance.

D. All landscaping, grading, structures, improvements, and appurtenances placed upon the property by the Licensee shall be at the expense of the Licensee and shall become the property of the City. The title to such items shall pass to the City upon such placement or construction. All such items mentioned above shall be maintained by the Licensee.

3. Maintenance. Licensee shall, at its own expense, make all repairs and renewals necessary or advisable to keep said premises and all additions thereto from deteriorating in value or condition to include racing platforms and two (2) track facilities and the City

shall be absolutely exempt from making any repair or renewal or addition to said premises and the appurtenances thereto during the term of this License.

4. Inspection. Licensee recognizes that the City has a duty to insure that the premises of Oak Lake Park are maintained in the best interest of the public. Licensee recognizes the right and obligation of the City to maintain order and a healthy environment to insure the general welfare of the public, and the City's power of supervision and control of the use of the park. Nothing herein shall be construed to divest the City of its legislative or administrative authority. Licensee shall operate as to conform with all ordinances of the City and laws of the State of Nebraska, and give assistance to the City in seeking conformity with such ordinances, statutes, and park regulations.

Further, the Licensee agrees to comply with and enforce all rules and regulations adopted by the City and/or City's Director of Parks and Recreation. Any official of the City may enter the premises at any reasonable hour for inspection purposes.

5. Risk of Loss. City is not in any way responsible for the property of Licensee or any of its employees, agents, or invitees kept, stored, or maintained on the licensed premises and in no way assumes responsibility for any loss of property through fire, theft, pilferage, malicious mischief, or any other happening whatsoever.

6. Advertising. No display signs or advertising shall be placed on the grounds, structure, or affixed in any manner, except upon written approval of the City in advance.

7. Fair Employment Practices. The Licensee shall not discriminate against any employee or any applicant for employment, to be employed in the performance of this License Agreement, with respect to his/her compensation, terms, advancement potential, conditions, or privileges of employment because of such person's race, color, religion, sex, disability, national origin, ancestry, age, or marital status, pursuant to the requirements of Lincoln Municipal Code Chapter 11.08 and Neb. Rev. Stat. § 48-1122 (Reissue 1993, as amended).

8. Fair Labor Standards. The Licensee under this License shall maintain fair labor standards in the performance of the contract as required by Neb. Rev. Stat. § 73,101, et seq. (Reissue 1996, as amended).

9. Unemployment Compensation. The Licensee, where applicable, shall be required to pay to the Unemployment Compensation Fund of the State of Nebraska under the provisions of the Nebraska Employment Security Law, Neb. Rev. Stat. § 48-601, et seq. (Cum. Supp. 1996, as amended) on wages paid to individuals employed in the performance of the License.

10. No Partnership, Joint Venture or Principal/Agent Relationship Created. Nothing in this License shall be interpreted as creating a partnership, joint venture or relationship of principal and agent between the parties.

11. "As Is". Licensee agrees that it is accepting this premises "as is", that Licensee has inspected the premises and has determined the premises to be suitable for the uses they intend. No representations have been made by the City as to the condition of the premises. Licensee understands and recognizes that the premises does not comply with ADA standards and any modification or structural changes made to the premises in order to comply with ADA standards will be made at the sole expense of Licensee.

12. Assignment and Subletting. Licensee may not assign or transfer this License or any interest in this License or any portion of the License without the prior written consent of the City in each instance. Licensee may not sublet the property or any part of the property without the prior written consent of the City in each instance. This provision shall apply to any assignment, transfer or sublease, whether by voluntary act, operation of law, or otherwise. Consent by the City to one assignment, transfer or sublease of this License or the property shall not be a waiver to City's rights under this License as to any subsequent assignment, transfer or sublease. No assignment, transfer or sublease shall release Licensee of its obligations under this License.

13. Hazardous Material. Licensee shall not cause or permit any hazardous material to be brought upon, kept, or used in or about the premises by the Licensee, its agents, employees, contractors, or invitees, without the prior written consent of the City (which City shall not unreasonably withhold as long as Licensee

demonstrates to City's reasonable satisfaction that such hazardous material is necessary or useful to Licensee's business and will be used, kept and stored in a manner that complies with all laws regulating any such hazardous material so brought upon or used or kept in or about the premises). If Licensee breaches the obligations stated in the preceding sentence, or if the presence of hazardous material on the premises caused or permitted by Licensee results in contamination of the premises, or if contamination of the premises by hazardous material otherwise occurs therefrom, the Licensee shall indemnify, defend and hold City harmless from any and all claims, judgements, damages, penalties, fines, costs, liabilities or losses (including, without limitation, diminution in value of the premises, damages for the loss or restriction on use of rentable or usable space or of any amenity of the premises, damages arising from any adverse impact on marketing of space, and sums paid in settlement of claims, attorney's fees, consultant fees and expert fees) which arise during or after the License term as a result of such contamination. This indemnification of City by Licensee includes, without limitation, costs incurred in connection with any investigation of site conditions or any clean-up, remedials, removal or restoration work required by any federal, state or local governmental agency or political subdivision because of hazardous material present in the soil or ground water on or under the premises. Without limiting the foregoing, if the presence of any hazardous material on the premises caused by or permitted by Licensee results in any contamination of the premises, Licensee shall promptly take all actions at its sole expense as are necessary to return the premises to the condition existing prior to the introduction of any such hazardous material to the premises; provided that City's approval of such actions shall first be obtained, which approval shall not be unreasonably withheld so long as such actions would not potentially have any material adverse long-term or short-term effect on the premises. As used herein, the term "hazardous material" means any hazardous or toxic substance, material or waste which is or becomes regulated by any local governmental authority or the United State Government.

14. Construction Liens. The Licensee hereby agrees that the Licensee will not permit or allow any construction, mechanic's or materialman's liens to be placed on the City's interest in the premises during the term hereof. Notwithstanding the previous sentence, however, in the event any such lien shall be so placed on the City's interest, the Licensee shall take all steps necessary to see that it is removed within 30 days of its being filed; provided, however, that the Licensee may contest any such lien, provided the Licensee first posts a surety bond in favor of and insuring the City in an amount sufficient to remove the lien pursuant to the terms of the Nebraska Lien Law.

15. ADA Clause.

A. The Licensee, at its sole cost and expense, shall comply with all requirements of the Americans with Disabilities Act with respect to the Licensee's activities in the demised premises and modification of nonstructural components of the demised premises.

B. The Licensee shall defend, save harmless, and indemnify the City from any costs, expense, or liability (including reasonable attorney's fees and other costs of defense) arising out of the Licensee's failure to fulfill its obligations under this License with respect to the Americans with Disabilities Act.

16. Insurance. The Licensee shall purchase such insurance as shall protect the Licensee from claims which may arise out of or result from the Licensee's operations under the agreement for which the Licensee may be legally liable, whether such operations be by the Licensee itself or by anyone directly or indirectly employed by the Licensee or by anyone for whose acts any of them may be liable. The insurance required shall be written for not less than the following amounts:

<u>Workers' Compensation</u>	<u>Commercial General Liability</u>
State - Statutory	Bodily Injury and Property Damage
Federal – Statutory	- \$1,000,000 combined single limit each occurrence - \$2,000,000 aggregate

All liability insurance policies shall be written on an occurrence basis only, shall be endorsed to add the City of Lincoln, its agents, and employees as an additional insured as related to this agreement and shall be maintained without interruption from the date of the commencement of the work until the date of termination. All insurance coverages are to be placed with an insurer that has an AM best rating of not less than

A:VII, unless specific written approval has been granted by the City to deviate from this requirement. The Licensee shall not commence work under this agreement until the insurance required under this section has been approved by the City Attorney for the City of Lincoln. All certificates of insurance evidencing such coverages shall be filed with the agreement showing the specific limits of insurance coverage required and any deductibles required. Such certificate shall specifically state the insurance policies are to be endorsed to require the insured to provide the City of Lincoln 30 days notice of cancellation, nonrenewal, or any material reduction of insurance coverage.

17. License to Hold City Harmless. To the fullest extent permitted by law, the Licensee shall indemnify, defend, and hold harmless the City, its agents, and employees from and against claims, damages, losses, and expenses including, but not limited to attorney's fees, arising out of, resulting from or related to the agreement that results in any claim for damage whatsoever including, without limitation, any bodily injury, sickness, disease, death, or injury to or destruction of tangible or intangible property, including the loss of use resulting therefrom that is caused in whole or in part by the Licensee or anyone directly or indirectly employed by the Licensee, or anyone for whose acts any of them may be liable. This section shall not require the Licensee to indemnify or hold harmless the City for any losses, claims, damages, and expenses arising out of or resulting from the sole negligence of the City. In addition, the City shall not be responsible nor be held liable for any damage consequent upon the use, misuse, or failure of any City equipment, material, or supplies used by the Licensee or anyone directly or indirectly employed by the Licensee. The acceptance or use of any such equipment, material, or supplies shall be construed to mean that the Licensee accepts the full responsibility for and in addition to paying for any loss or damage thereto, Licensee agrees to exonerate, indemnify, and save harmless the City from and against any and all claims for any damage whatsoever resulting from the use, misuse, or failure of such equipment, material, or supplies, whether such damage be to the employee or property of Licensee, the City of other persons, even though such equipment may be furnished, rented, or loaned to the Licensee by the City. Licensee agrees that should this License be declared of no force and effect, it will hold the City harmless for any and all losses to the Licensee.

18. Admission Fee. The Licensee may charge an admission fee for its events. All admission fees for Licensee's activities must be reasonable, so as to allow for as many citizens to participate as possible. A schedule of fees shall be submitted to the Director of Parks and Recreation for approval. The Licensee agrees to pay the City twelve percent (12%) of the gross revenues received from its events and activities. The City may elect to receive such payment in cash, or in the form of site improvements in lieu of cash payment.

19. Utility Charges. The Licensee shall be responsible for payment of any utility charges associated with its activities.

20. Rules and Regulations. Rules and regulations for the use of the facility shall be promulgated by the City through the Director of Parks and Recreation. The Licensee may recommend rules and regulations subject to the approval of the Director of Parks and Recreation. All rules and regulations for the use of the premises shall be approved by the Mayor and placed on file in the City Clerk's Office.

21. Termination. When deemed in the best interests of the City of Lincoln, the Mayor and City Council may terminate this License Agreement by 30 days written notice delivered to HobbyTown Unlimited Inc.

22. Dates. The exclusive control of the premises shall be for the dates agreed upon and approved in writing by the Director of Parks and Recreation. Any use other than the Licensee allowed uses shall be subject to the approval of the Director of Parks and Recreation. It is understood and agreed that the City does not intend to surrender jurisdiction of its park property described in this License and that said property will continue to be used for the benefit of the public.

Prior to April 1 of each year, the Licensee shall submit to the Director of Parks and Recreation a list of proposed dates for the upcoming year on which the Licensee may use the premises for its activities.

23. Annual Report. The Licensee shall, annually on the first day of January, furnish the City in writing a report of the Licensee's calendar year receipts and disbursements in connection with this License, together with such other information as the City may reasonably require to determine compliance with the terms of this Licensee.

24. Release. Prior to participating, the Licensee shall require anyone participating in a racing or sanctioned event to sign the release form described in Exhibit "B" which is attached hereto and made a part of this License. In cases where a minor is involved, said form must be signed by a parent or guardian prior to participating in the event. The Licensee shall submit copies of the signed forms to the City for its own use. Failure to have the release forms signed and submitted to the City will be cause for immediate termination of this License.

25. Entire Agreement. This agreement contains the entire understanding of the parties hereto with respect to the transactions contemplated hereby and supersedes all prior agreements and understandings with respect to such subject matter.

26. Representations. No representations, warranties, undertakings, or promises, whether oral, implied, written, or otherwise, have been made by either party hereto to the other unless expressly stated in this agreement. Neither party has relied on any verbal representations, agreements, or understandings not expressly set forth in this agreement.

The City specifically makes no warranties as to the legality or suitability of the use by the Licensee. Licensee has made its own investigation of the property, researched the legal issues, and has independently satisfied itself that this License is proper as to form and legality. By signing this License, Licensee assumes all risks associated with this use.

27. Waiver. Any waiver by any party of a default of any other party of this agreement shall not affect or impair any right arising from any subsequent default. No custom or practice of the parties which varies from the terms of this agreement shall be a waiver of any party's right to demand exact compliance with the terms of this License Agreement.

The Licensee hereby agrees to accept this License Agreement and to be bound by all terms and conditions hereof.

Executed by **Licensee** on the 4 day of February, 2005.

HOBBYTOWN UNLIMITED INC., a Nebraska corporation

Address: 6301 South 58<sup>th</sup> Street, Lincoln, NE 68516

By: Timothy Davis  
Title: Senior Vice President

Executed by **City** on the \_\_\_\_\_ day of \_\_\_\_\_, 2005.

Attest:

CITY OF LINCOLN, NEBRASKA

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Coleen J. Seng, Mayor

111803maj

# ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YY)  
04/13/04

PRODUCER  
THE HARRY A. KOCH CO.  
PO BOX 45279  
OMAHA NE 68145-0279

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

**COMPANIES AFFORDING COVERAGE**

COMPANY  
**A** HARTFORD INSURANCE GROUP

COMPANY  
**B**

COMPANY  
**C**

COMPANY  
**D**

INSURED  
Hobby Town Unlimited, Inc.  
& HTU Holding, Inc.  
6301 So. 58th St.  
Lincoln NE 68516

**COVERAGES**

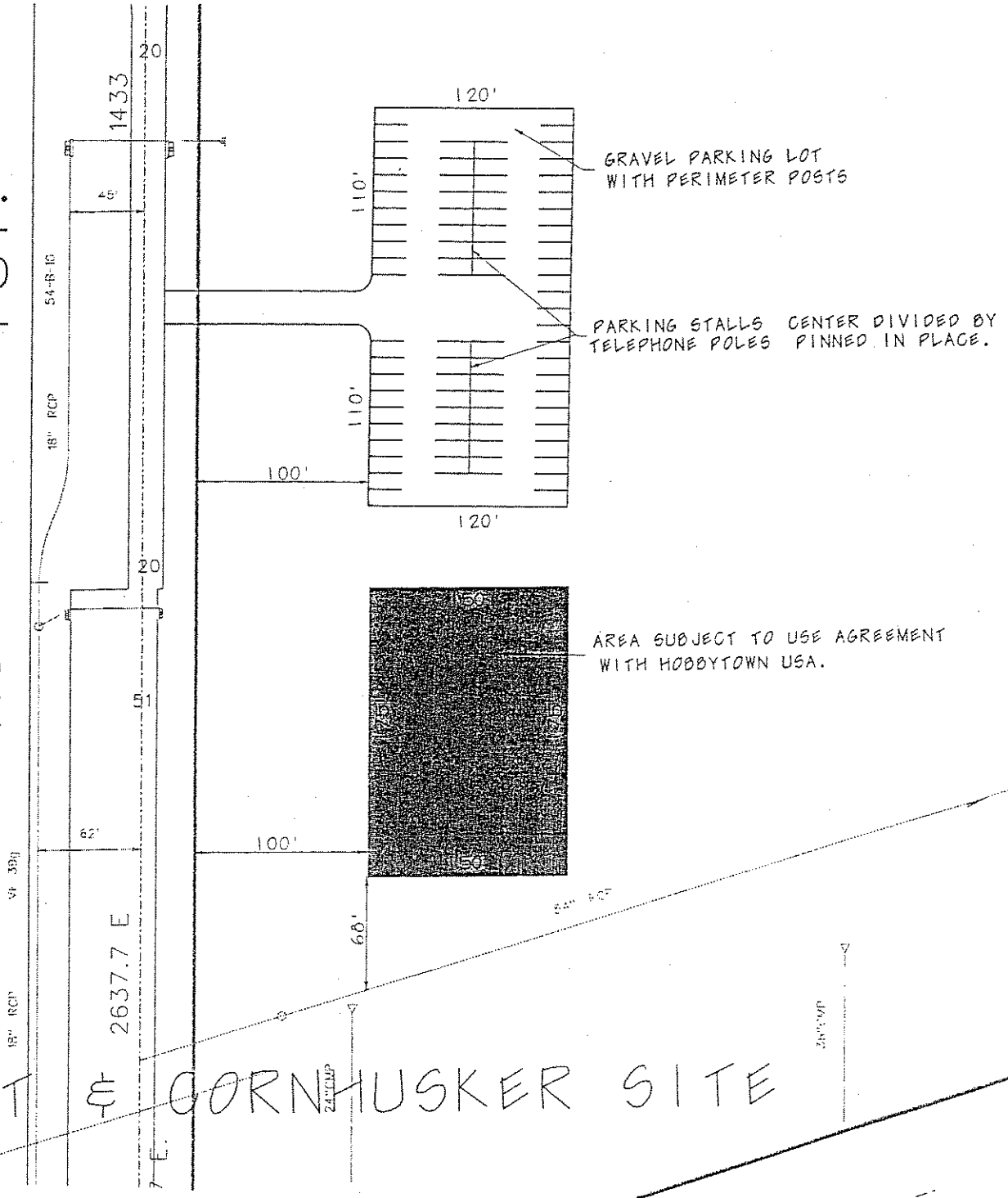
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	<b>GENERAL LIABILITY</b> <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> OWNER'S & CONTRACTOR'S PROT	91SBAES4329	5/01/04	5/01/05	GENERAL AGGREGATE \$ 2000000 PRODUCTS - COMPI/OP AGG \$ 2000000 PERSONAL & ADV INJURY \$ 1000000 EACH OCCURRENCE \$ 1000000 FIRE DAMAGE (Any one fire) \$ 300000 MED EXP (Any one person) \$ 10000
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				COMBINED SINGLE LIMIT \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE \$
	<b>GARAGE LIABILITY</b> <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY: EACH ACCIDENT \$ AGGREGATE \$
	<b>EXCESS LIABILITY</b> <input type="checkbox"/> UMBRELLA FORM <input type="checkbox"/> OTHER THAN UMBRELLA FORM				EACH OCCURRENCE \$ AGGREGATE \$
	<b>WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY</b> THE PROPRIETOR/PARTNERS/EXECUTIVE OFFICERS ARE: <input type="checkbox"/> INCL <input type="checkbox"/> EXCL				WC-STATUTORY LIMITS   OTH-ER EL EACH ACCIDENT \$ EL DISEASE - POLICY LIMIT \$ EL DISEASE - EA EMPLOYEE \$
	OTHER				

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS  
 CITY OF LINCOLN IS ADDITIONAL INSURED AS RESPECTS RACING BEING HELD AT: 2100 N. 1ST STREET, LINCOLN, NEBRASKA

<p><b>CERTIFICATE HOLDER</b></p> <p>CITY OF LINCOLN, PARKS &amp; RECREATION 2740 "A" STREET LINCOLN NE 68502</p>	<p><b>CANCELLATION</b></p> <p>SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.</p> <p>AUTHORIZED REPRESENTATIVE <i>[Signature]</i></p>
--	--

NO. 1 ST.



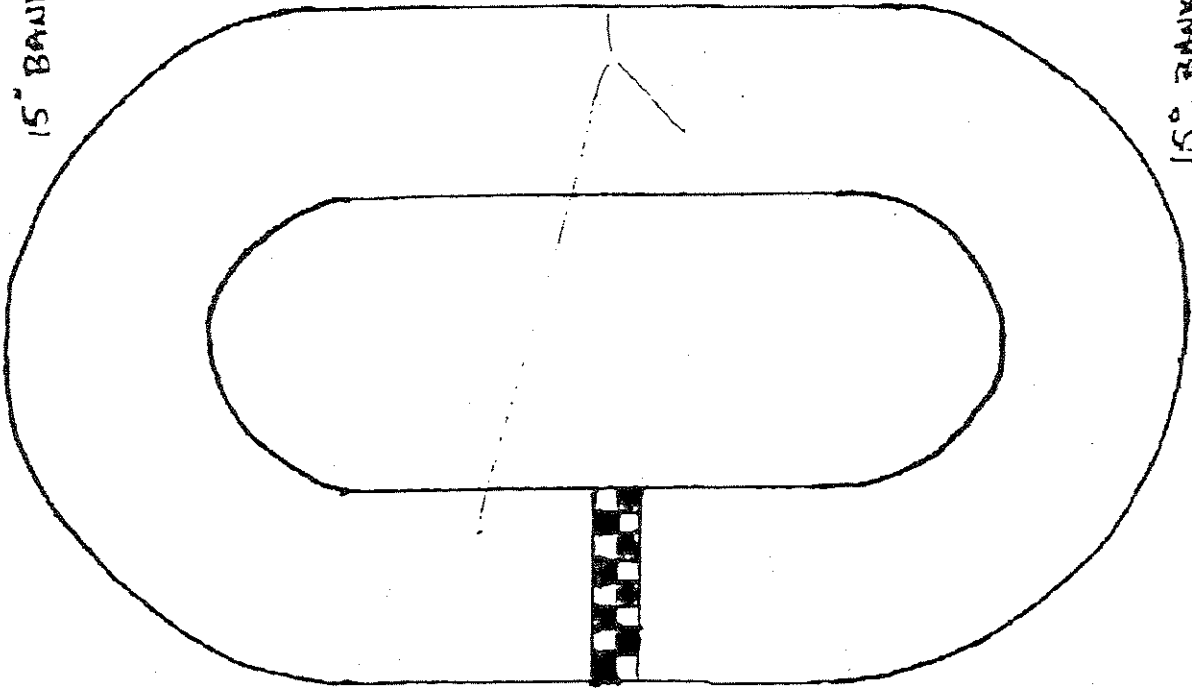
FIRST & CORNHUSKER SITE

15° BANKING

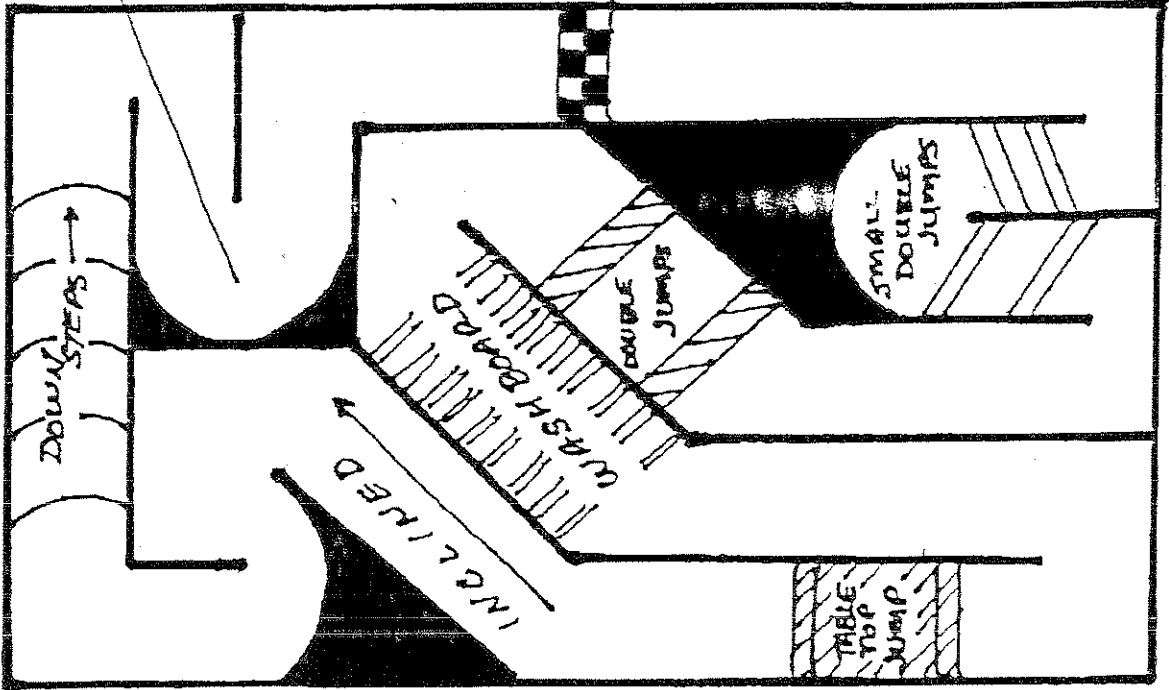
15° BANKING

7-10" BANKING

15° BANKING



BANKED CLIT-BACK



DOWN STEPS

WASH BOARD

TABLE TOP JUMP

SMALL DOUBLE JUMPS

DOUBLE JUMPS