

ORDINANCE NO. _____

**AN ORDINANCE TO PROVIDE FOR SALE OF ADJUDICATED PROPERTIES;
AND, FURTHER PROVIDING WITH RESPECT THERETO.**

WHEREAS, the Parish of Lincoln has an interest in the health, safety and welfare of its citizens; and

WHEREAS, numerous properties have been adjudicated to the Parish for nonpayment of taxes; and

WHEREAS, Act 819 was enacted by the 2008 Legislative Session, revising La. R.S. 47:2121, *et seq.* to establish procedures for the sale of adjudicated properties, and the Parish of Lincoln desires to establish and adopt such procedures in order to place such adjudicated properties back into the economic stream of commerce for the benefit of its communities; and

WHEREAS, R.S.47:2201, authorizes a political subdivision to adopt general ordinances governing the public sales and donations of adjudicated property.

NOW THEREFORE:

I. ADMINISTRATION

Lincoln Parish Police Jury hereby establishes the Lincoln Parish Adjudicated Property Program, which shall be administered by the Lincoln Parish Police Jury (hereinafter "LPPJ" or "Parish" or "Police Jury"). The Parish shall contract with a third party administrator or management company (hereinafter "Management Company") to administer the sale or donation of adjudicated properties in the Parish.

The LINCOLN PARISH POLICE JURY hereby authorizes, pursuant to La. R.S.47:2196, the public sale of all properties adjudicated to the Parish since January 1, 1975, and for a period of at least three (3) years. The sale of said properties shall be governed by the laws of the State of Louisiana and this Ordinance.

II. PUBLIC INFORMATION AND DISCLOSURE

Forms and instructions shall be accessible to the public from the web site or printed publication produced and provided by Lincoln Parish for such purposes, to include the following:

- A. Listing of all properties adjudicated to the Parish with links to the Parish Assessor's online database, if possible.
- B. Notice to Buyers, which shall contain instructions, disclosure of rights, and contact information.

- C. Persons questioning the status of their property taxes shall be instructed to contact the Parish Assessor's office.
- D. Copy of Parish Ordinance regulating policies and procedures for sale of adjudicated properties.
- E. Definitions and citation to Louisiana Revised Statutes.
- F. Offer to Purchase Form with instructions for completion and assistance.

III. PRE-BIDDING PROCESS

A. Initiation of Sale

The Parish Assessor shall annually compile a list of names and addresses of adjudicated properties from the tax roll records and make such list available to the public in printed form, and on the Parish website if possible. The Parish Assessor shall also forward such list to the Management Company.

Pursuant to La. R.S 2203, the sale of such adjudicated property may be prompted by individual interest (whether it be a natural person or juridical person) or at the request of the Parish or Police Jury, at any time.

An individual submitting a request for the sale of specific property shall submit an application with a certified check or money order in the amount of \$1,250.00 for each piece of property, payable to *Lincoln Parish, Adjudicated Properties Program*. Of this fee, \$250.00 shall constitute a deposit to ultimately be credited to the purchase price of the property upon closing. The remaining \$1000.00 shall be applied to the administrative expenses as described herein below.

Upon receipt of application and fee, the Management Company shall conduct a preliminary investigation to confirm that the property has been adjudicated, has not been redeemed and has not been determined as needed for a public purpose.

After the preliminary investigation, the Management Company shall:

1. Conduct Title Research - Title research shall include copies of all documents from the public record. If necessary, surrounding properties may be researched to ascertain the physical location and boundaries of subject properties. Management Company shall utilize abstracting services of insured abstractors at its discretion. Said title search shall include tax certificates obtained from the Lincoln Parish Tax Collector, mortgage certificates obtained from Lincoln Clerk of Court, and any records obtained from Parish Assessor's office. Copies of surveys and maps of record may also be provided.
2. Effect Public Notice - The public sale by auction shall be advertised at least twice in the official journal for the Parish of Lincoln, once at least thirty days prior to the date of the public sale, and once no more than seven days prior to the date

of the public sale. The notice shall provide for the minimum bid, the latest date written bids will be accepted, the time and date of in-person bidding, if any, and any other terms of sale.

3. Other Administration and Determination of Minimum Bid Amount – The Management Company shall prepare reports, send statutory notices to all interested parties, and confirm the minimum bid price, based upon total amount of liens and taxes due, and acquisition costs. Pursuant La. R.S. 47:2202, Lincoln Parish hereby establishes that the minimum bid at the public sale of an adjudicated property shall not be less than the lesser of:
 - a) The total amount for which the property was adjudicated, including all interest, costs, penalties, and the amount of any state, parish, city, levee district charges and all subsequent taxes and other local improvement or code enforcement charges; or,
 - b) Two-third the assessed value.

IV. BIDDING AND PUBLIC SALE

Except as otherwise provided in this ordinance, or by La. R.S. 47:2121 *et seq.*, the auction shall be governed by R.S. 9:3151 *et seq.* Following notice of sale being published in the official journal of the Parish of Lincoln, the following shall occur:

A. Public Auction

Public auction of adjudicated property shall be held at the LINCOLN PARISH POLICE JURY office located at Ruston, La. and shall be handled by the office of Parish Treasurer. All bid amounts are subject to final approval by the Parish. The Parish is hereby authorized to accept and/or reject any or all bids, and to execute any and all documents necessary to finalize the sale of properties sold pursuant to these procedures. If in any event a property is not sold at such public auction, the property shall remain adjudicated to the Parish.

B. Terms for Sale of Adjudicated Property

All Acts of Sale of adjudicated property shall contain provisions, acceptable in form and substance to the Parish, which provide that all such sales shall be for cash and shall be without warranty of title and without any warranty of merchantability or fitness; shall be "as is, where is"; that it shall be the obligation of the purchaser to obtain title insurance, if it is desired; that all such sales shall be subject to such encumbrances, liens, mortgages, real charges or other burdens reflected in the public records; and that the Act of Sale for such adjudicated property shall contain a condition which shall require the purchaser of such property to improve/renovate/make use of the tract, to the satisfaction of the administration, within 365 days of the passage of

the Act of Sale and that, if the purchaser fails to timely comply with this provision, the Parish Jury shall have the right to rescind, dissolve or cancel the sale.

C. Notice to Tax Debtor and Tax Parties

(a) The Management Company, on behalf of the Parish for the benefit of the potential purchaser, shall give notice to any tax sale party whose interest that a prudent purchaser would intend to terminate, as determined by the Management Company, in its discretion, that he has until the later of the following to redeem the property or otherwise challenge in a court of competent jurisdiction the potential sale: (i) depending on the date of adjudication, either sixty days or six months from the date of the notice provided in this Subsection; or (ii) the filing of the act of sale transferring the property.

(b) The Management Company, on behalf of the Parish for the benefit of the potential purchaser, shall cause to be published in the official journal of Lincoln Parish a notice that any tax sale party whose interest that a prudent purchaser would intend to terminate has until the later of the following to redeem the property or otherwise challenge in a court of competent jurisdiction, the potential sale of the property: (i) Sixty days from the first publication of the notice provided for in this Subsection; or (ii) The filing of the sale or donation transferring the property.

(c) The Management Company shall make available during business hours to any potential bidder, upon reasonable request, the notices, the publication and the results of such notification and publication.

(d) The Management Company on behalf of the Parish for the benefit of the potential purchaser or the successful bidder may file with the recorder of mortgages of Lincoln Parish a copy of one of the notices that was sent to the tax debtor or the current owner. A transfer, mortgage, lien, privilege, or other encumbrance filed after the filing of the notice shall not affect the property. Pursuant to the provisions of La. R.S. 47:2206(C), the recorder of mortgages or recorder of conveyances shall cancel, erase, terminate, or release the acts upon the request of the Management Company or the successful bidder.

D. Closing Transaction

Within 10 business days of the sixty day or six month period set forth in the notices provided above, closing of the transactions shall occur. Such date may be extended by mutual agreement of the Management Company, acting on behalf of the Parish, and the potential purchaser. On the day of closing, and immediately prior to closing, the purchaser shall provide the Management Company with written notice from the tax collector that the property to be purchased has not been redeemed.

Closings shall be conducted by the management company. However, purchaser

may retain additional legal counsel, at its expense.

At closing, the purchaser shall pay the net purchase price, reflecting any deposit that has been made and applied to the purchase price.

All sales are made without warranties whatsoever, except for warranty against eviction based on prior alienation by the political subdivision. Purchaser has the right to obtain title insurance, if available, at its sole cost and expense. All minerals and mineral rights shall be reserved by the Parish, if allowed by law. Cash Sales may contain additional reservations, requirements, restrictions, rights of way, and servitudes imposed by the Parish.

Upon recordation of the sale, disbursement of funds shall occur. All proceeds after the deduction of costs shall be paid pro rata to holders of statutory impositions and governmental liens, unless otherwise agreed. Any excess amount shall be paid to the Parish.

E. Purchaser's Affidavit

1) Contemporaneously with or subsequent to the filing of the sale or donation of adjudicated property, the acquiring person, his successors, or assigns, at his own additional expense may file with the recorder of mortgages of Lincoln Parish indicating how the tax sale parties whose interest the acquiring person, his successors, or assigns, intends to be terminated were identified, how the address of each tax sale party was obtained, how the written notice was sent, the results of sending the written notice, and the dates of publication. The affidavit may also contain a statement of the interest to which the purchaser or donee takes subject. The recorder of mortgages shall index the affidavit only under the names of the owner filing the affidavit and the tax debtor, as mortgagors. The affidavit shall conform to La. R.S. 47:2208(A).

2) With respect to a sale, the filing of the affidavit provided in Subsection (1) of this Section shall operate as a cancellation, termination, release, or erasure of record of all statutory impositions of all political subdivisions then due and owing, of all governmental liens, and of all interests, liens, mortgages, privileges, and other encumbrances recorded against the property sold and listed in the affidavit.

3) Upon filing of the affidavit, the recorder of mortgages or the recorder of conveyances shall treat as canceled, terminated, released, or erased, all those liens, privileges, mortgages or other encumbrances canceled, terminated, released or erased under Subsection (2) of this Section, only insofar as they affect the property.

4) Purchaser shall be responsible for recording and paying any other recording fees, including, without limitation, fees for recording any affidavits.

V. LOT NEXT DOOR PROGRAM

Lincoln Parish Police Jury hereby further authorizes the Parish to sell any eligible adjudicated property to any adjoining landowner for any price set by the Parish without public bidding. In the event that there is more than one adjoining landowner interested in purchasing the property, preference will be given to the landowner that establishes that he or she has maintained the adjudicated property for a period of one year prior to the sale. In the event that more than one adjoining land owner has maintained the property for a period of more than one year, the landowner whose adjoining property has homestead exemption status shall be given the first opportunity to acquire the eligible adjudicated property. Such a sale shall be deemed a public sale, pursuant to La R.S. 47:2202(B).

VII. DONATION OF PROPERTY

The Lincoln Parish Police Jury hereby further authorizes the Parish, to the extent allowed by the Louisiana Constitution, to donate any eligible adjudicated property to be used only for purposes allowed by the Louisiana Constitution.

VIII. SEVERABILITY

If any provision contained in this ordinance is held invalid, such invalidity shall not affect other provisions which can be given effect without the invalid provision, and to this end, the provisions established herein are declared severable.

This ordinance becomes effective in accordance with dates set forth herein and five (5) days after publication in the Official Journal.