

## APPENDIX 2

### MORTGAGEABLE AND NON-MORTGAGEABLE COSTS

<b>ADVERTISING COSTS</b>	
Mortgageable	Advertising costs incurred in obtaining competitive bids.
Not Mortgageable	Advertising and awareness campaigns related to the project, including “grand opening” events.
<b>ARCHITECTS FEES</b>	
Mortgageable	The cost of architectural services rendered in connection with the project as approved, including the cost of drawings and specifications prepared by State or political subdivisions, where such agencies are the sponsors of approved projects. The architect’s fee may be based on a contract between the architect and the mortgagor setting forth the services to be provided and the manner in which the fee is determined. Federal participation is limited to an amount which is commensurate with accepted fees within the area.
Not Mortgageable	Payment to the architect for work that is not a part of the approved project, abandoned work or work not put under contract, and any payment to the architect that is not provided for in the owner-architect agreement.
<b>BONUS PAYMENTS TO CONTRACTORS</b>	
Not Mortgageable	Bonus payments made by the mortgagor to the contractor for completing work in advance of a specified time, for completing work at or below budgeted costs, or for other reasons.
<b>CONSULTANT FEES</b>	
Mortgageable	<ul style="list-style-type: none"> <li>• (Non-profit only) Consultant fees to the extent that they involve work in connection with drawings and specifications and the selection and purchase of equipment.</li> <li>• The cost of the required study of market need and financial feasibility.</li> <li>• The cost of required cost certifications.</li> </ul>
Not Mortgageable	<ul style="list-style-type: none"> <li>• The cost of conducting studies to estimate debt capacity or to support a request for a Certificate of Need.</li> <li>• Consultant fees on proprietary facilities (not including fees required for conducting studies of market need and financial feasibility).</li> </ul>

<b>DAMAGE JUDGMENTS AGAINST SPONSOR</b>	
Not Mortgageable	Expenses incurred as damages arising out of the construction or equipping of the project, whether established by judicial determination, arbitration, negotiation, or otherwise.
<b>EQUIPMENT</b>	
Mortgageable	The actual cost of all essential initial equipment purchased for the approved project after filing the application. Such costs include the cost of transportation, storage, and placement of equipment and the cost of reconditioning equipment which will be used in the project. Essential initial equipment may include equipment made necessary by the expansion, remodeling, alteration, and modernization of an existing building, even though the equipment may not be located in expanded, remodeled, altered, or modernized areas.
<b>FUND RAISING EXPENSES AND MEMORIAL PLAQUES</b>	
Not Mortgageable	Costs incurred by the sponsor in raising the non-Federal share of the cost of the project. This includes memorial plaques inscribed with the names of persons, business firms, or other organizations, or books or remembrances used to give recognition to contributors, as well as promotional fundraising events and media related to the project.
<b>AUXILIARY SERVICES WITHIN HOSPITAL</b>	
Mortgageable	The cost of space and equipment providing auxiliary services such as gift shop, flower shop, and cafeteria services. The need for and size of any auxiliary space is to be reviewed in the light of patient needs and operation of the facility.
<b>HOUSING STAFF FOR NURSING HOME</b>	
Mortgageable	The cost of limited quarters for a nurse on call for 24 hours in an approved project.
<b>INSPECTION</b>	
Mortgageable	The cost of supervision and inspection provided by the architect or an employee of the applicant at the site to ensure that the completed work conforms to approved drawings and specifications.
<b>INSURANCE COVERAGE</b>	
Mortgageable	The cost to the mortgagor of insurance coverage during the construction of the project, including the following: <ul style="list-style-type: none"> <li>• The cost of the mortgagor's liability insurance.</li> <li>• The cost of insurance covering construction in the event the insurance is carried by the mortgagor rather than the contractor.</li> <li>• The cost of insurance carried by the mortgagor to protect equipment purchased by the mortgagor against loss or damage.</li> </ul>

<b>PICTURES AND ART</b>	
Mortgageable	The cost of pictures and decorative art, to the extent that the number and cost are reasonable.
Not Mortgageable	The cost of the creating original work, such as a mural.
<b>PREPAYMENT PENALTIES</b>	
Mortgageable	Penalties or premiums required by contract in connection with retiring existing capital debt which is to be refinanced under Section 242.
<b>PUBLIC HEALTH FACILITIES IN PRIVATE NONPROFIT HOSPITAL</b>	
Not Mortgageable	The cost of constructing and equipping Facilities in a hospital which are intended for the provision of public health services by State or local health departments.
<b>LIQUIDATED DAMAGES</b>	
Mortgageable	Any amounts collected by mortgagors on bid bonds of defaulting bidders or as liquidated damages for failure of a contractor to complete the work on time shall be disregarded in determining the cost of construction.
<b>SALES TAX</b>	
Mortgageable	The nonrefundable sales tax and Federal excise tax which a mortgagor pays in connection with constructing and equipping an approved project.
<b>SPACE AND EQUIPMENT FOR RELIGIOUS ACTIVITIES</b>	
Mortgageable	The cost of space and equipment for the provision of spiritual or religious services to patients and staff in eligible medical facilities where such services are appropriate to the type of facility involved and reasonable in amount.
Not Mortgageable	Cost of any distinctly sectarian or denominational features of construction or the cost of equipment characteristic of, or peculiar to, any sect or denomination.
<b>SPACE FOR PRIVATE PRACTICE OF MEDICINE</b>	
Mortgageable	The cost of office space intended for the conduct of the private practice of medicine or dentistry, where such space is owned by the hospital and it is advantageous to both the hospital and the community when judged on an individual basis.
<b>SPACE FOR REVENUE PURPOSES</b>	
Not Mortgageable	Cost for office and other space constructed solely for revenue purposes or for the convenience of the occupants as contrasted with the operation of the facility.

<b>SPACE TO BE LEASED TO RADIOLOGIST OR PATHOLOGIST</b>	
Mortgageable	The cost of space to house the radiology and pathology services of the hospital and the equipment therein which is to be leased for operation to a radiologist or pathologist. The hospital must retain authority to control the activities for which the space is utilized to ensure that services to be provided in such space are consistent with the needs and requirements of the hospital.
<b>INFORMATION TECHNOLOGY AND AUDIO / VISUAL EQUIPMENT</b>	
Mortgageable	The cost of purchasing and installing information technology systems, audio visual equipment, and television, inclusive of hardware and software, as approved by HUD.
<b>TERMINATION COSTS FOR INTEREST RATE SWAPS</b>	
Mortgageable	Within the limits described in <b>Supplement 1</b> to this Appendix.
<b>UNFINISHED SPACE</b>	
Not Mortgageable	The cost of shell, unfinished, or partially finished space. No proposal will be approved for a facility containing unfinished space if the projected use of the unfinished space will exceed projected needs.

## SUPPLEMENT 1

### CONDITIONS FOR ALLOWING USE OF MORTGAGE PROCEEDS FOR SWAP TERMINATION COSTS

1. For interest rate swap contracts related to tax-exempt financing, the termination cost must be for an interest rate swap that was entered into as an interest rate hedge at the same time as the original financing. In determining if a swap is eligible for inclusion of its termination cost in the FHA-insured mortgage loan, lenders may refer to the discussion of a “Qualified Hedge” under Section 1.148-4(h) of the Treasury Department regulations. The terms of the swap must be acceptable to HUD for its termination cost to be considered for payment with borrowed funds. At HUD’s request, the application for mortgage insurance must include a legal opinion from a qualified counsel that the swap meets the definition of a “Qualified Hedge” or is substantially in conformance with that definition.
2. For interest rate swap contracts related to taxable financing, the termination cost must be for an interest rate swap that was integrated with the original financing and entered into as an interest rate hedge within 15 days of the original financing.
3. HUD will determine as a first step in its review of a proposal if the cash position of the healthcare facility or system appears sufficient to allow available cash to be used to pay all or some of the swap termination cost.
4. Standard FHA underwriting applies to all programs, as modified herein.
5. Loan-to-Value:
  - a. In calculating loan-to-value (LTV), the “loan” part of the ratio will include the swap termination cost.
  - b. For a mortgage that includes swap termination costs, the LTV shall not exceed 85%.
6. Limits on Swap Termination Costs as a Percent of Mortgage Proceeds
  - a. No more than 10% of the insured mortgage proceeds may be used for swap termination costs in Section 223(f) refinancing transactions.
  - b. No more than 5% of the insured mortgage proceeds (not to exceed \$10 million) may be used for swap termination costs for refinancing in connection with substantial rehabilitation or replacement facility projects.
7. This policy is meant to address the significant disruption within the variable rate financing market during late 2008. Therefore, this policy applies only to interest rate swap contracts in place prior to 1/1/09.
8. The mortgagor must have no further or residual financial obligations after termination of the interest rate swap.

9. If there is more than one swap contract, the contracts shall be netted against one another, in case the facility realized a positive return on one but owed a termination fee on another.
10. HUD will require a “Fairness Certification” from the broker/dealer or interest rate swap provider that:
  - a. Calculation of fees is correct and fair pursuant to the original interest rate swap contract;
  - b. No other consideration is involved; for example, a higher termination fee is not being charged in connection with additional services to be provided to the healthcare facility or system; and
  - c. For interest rate swap contracts related to taxable financing, the termination cost is for an interest rate swap contract that was integrated with the original financing and entered into as an interest rate hedge within 15 days of the original financing.
11. HUD will review and approve the sources and uses of mortgage proceeds related to payment of the interest rate swap termination fee/penalty.