

RESOLUTION NO. 24362

A RESOLUTION TO MAKE CERTAIN FINDINGS RELATING TO THE BLUECROSS BLUESHIELD OF TENNESSEE, INC. PROJECT, AND TO AUTHORIZE THE MAYOR TO ENTER INTO AND EXECUTE AN EXCHANGE AGREEMENT AND A LEASE AGREEMENT WITH RESPECT TO CERTAIN REAL PROPERTY.

WHEREAS, BlueCross BlueShield of Tennessee, Inc. (the "Company") is contemplating the acquisition of real property within the City, and the construction and equipping thereon of office buildings and parking facilities ("Project"), and, in order to complete development of the Project, the Company is requesting that the City exchange the real property consisting of Firehall No. 1 located on West Martin Luther King, Jr. Boulevard and the 6.125-acre parcel known as Boynton Park for the Company's office building located at 730 Chestnut Street ("730 Building") with the Company thereafter leasing the 730 Building from the City for a multi-year term until Company's employees in the 730 Building can be relocated to the Project; and

WHEREAS, the Council has determined that such exchange and lease would be in the best interest of the City.

NOW, THEREFORE

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, That we do hereby find that the exchange of such real properties with the Company and the lease to the Company of the 730 Building is in the best interest of the City and the Mayor is hereby authorized to enter into an Exchange Agreement and Lease with the Company in the forms attached hereto as Exhibit "A", and Exhibit "B" with such changes thereto as the Mayor shall approve.

BE IT FURTHER RESOLVED, That the Mayor, or the appropriate officer or designee, is authorized to execute all deeds and necessary documents in order to carry out the intent of this Resolution.

ADOPTED: March 22, 2005.

/add

**EXHIBIT A
TO RESOLUTION
(Exchange Agreement)**

EXCHANGE AGREEMENT

THIS EXCHANGE AGREEMENT is made and entered into as of the ____ day of March, 2005, by and between **BLUECROSS BLUESHIELD OF TENNESSEE, INC.**, A Tennessee nonprofit corporation, ("BCBST") having its principal place of business at 801 Pine Street, Chattanooga, Tennessee 37402, and the **CITY OF CHATTANOOGA**, a public municipality existing under the laws of the State of Tennessee (the "City").

WHEREAS, BCBST owns a fee simple interest in a certain parcel of real property located at 730 Chestnut Street, Chattanooga, Tennessee, for business use or investment;

WHEREAS, the City owns fee simple interest in a certain unimproved tract of land located on the north side of Cameron Hill, Chattanooga, Tennessee, and an improved parcel of real estate located on West M. L. King, Jr., Boulevard, Chattanooga, Tennessee;

WHEREAS, BCBST desires to exchange its property with the City for the properties owned by the City pursuant to Section 1031(a)(3) of the Internal Revenue Code of 1986, as amended (the "Code"), with the acquired properties to be held by BCBST for business use or investment.

WHEREAS, BCBST desires to contribute the excess value of its property over and above the properties received from the City to the City as a charitable contribution pursuant to Section 170(a) of the Code for public use and for the benefit of the City and the citizens of the greater Chattanooga area.

NOW, THEREFORE, in consideration of the premises herein contained and of other good and valuable consideration, the receipt and legal sufficiency of which hereby are acknowledged, the parties do hereby contract and agree as follows:

1. Exchange. BCBST will convey to the City the 730 Building ("730 Building") located at 730 Chestnut Street, which has a value of \$3,800,000, in exchange for (i) the firehall tract located on West Martin Luther King, Jr. Boulevard ("Firehall Parcel"), which has a value of \$450,000, and (ii) the 6.125 acre parcel of unimproved land located on the north side of Cameron Hill ("Undeveloped Parcel"), which has a value of \$1,014,000.

2. Tax Treatment. The exchange will be treated as a Section 1031 like-kind exchange under the Code.

3. Charitable Contribution. The amount by which the value of the 730 Building is in excess of the value of the Firehall Parcel and the Undeveloped Parcel, which amount is \$2,336,000, will be contributed to the City of Chattanooga as a charitable contribution

for the tax year in which the charitable contribution is made. The City will cooperate with BCBST in documenting this charitable contribution.

4. Property Description. The property descriptions of the respective parcels are attached hereto as Exhibits A, B and C.

5. Closing. The Closing will occur at the offices of Miller & Martin PLLC, on a date that is mutually agreeable to BCBST and the City, but not later than April 1, 2005, unless the parties mutually agree on a later date.

6. Title to the Properties. Title to the respective parcels will be conveyed by duly authorized limited or special warranty deeds. Each party will accept title to the respective properties subject to existing recorded encumbrances other than consensual monetary liens.

7. Due Diligence. Commencing on the date hereof, BCBST and the City each will have up to thirty (30) days ("Due Diligence Period") in which to conduct such physical and other inspections and investigations of the respective parcels which they deem appropriate. If, prior to the expiration of the Due Diligence Period, either the City or BCBST notifies the other party that for a material reason, it deems either of the respective parcels to be unsuitable, then the exchange of such parcel contemplated hereby will be terminated and of no further force and effect.

8. Lease. At the Closing, BCBST and the City will enter into a net, net, net, lease of the 730 Building by BCBST for the sum of One Dollar (\$1.00) per annum for a term of five (5) years provided that BCBST will be able to extend the lease for up to two (2) additional years upon the same terms and conditions or terminate the lease without penalty prior to the expiration of the original term upon ninety (90) days notice. In addition to the \$1.00 per annum rent, BCBST will pay to the City and to Hamilton County an amount equal to the respective ad valorem taxes that otherwise would be applicable to the 730 Building if not owned by an exempt entity (net of any ad valorem leasehold taxes that BCBST has to pay as to the 730 Building).

9. Controlling Law. This Exchange Agreement shall be construed under the laws of the State of Tennessee.

10. Amendments. This Exchange Agreement may not be modified, except by a writing executed by both parties.

11. Time. BCBST and the City shall promptly carry out their obligations under this Exchange Agreement, time being of the essence.

12. Entire Agreement. This Exchange Agreement supersedes all prior agreements and understandings between the parties hereto, including, without limitation, any and all prior letters of intent, relating to the subject matter of this Exchange Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Exchange Agreement on the date first above written.

BLUECROSS BLUESHIELD OF TENNESSEE,
INC.

BY: _____
Vicky Gregg, President and CEO

CITY OF CHATTANOOGA, TENNESSEE

BY: _____
Robert P. Corker, Jr., Mayor

EXHIBIT A

730 Chestnut Building Parcel

In the City of Chattanooga, Hamilton County, Tennessee:

BEGINNING at the Northeast corner of Chestnut and West Eighth Streets; thence running in an Eastwardly direction along the Northern boundary line of West Eighth Street one hundred ten (110) feet to a point; thence in a Northwardly direction, parallel to Chestnut Street one hundred twenty-five (125) feet to a point; thence in a Westwardly direction, parallel to West Eighth Street, one hundred ten (110) feet to a point in the Eastern boundary line of Chestnut Street; thence in a Southwardly direction along the Eastern boundary line of Chestnut Street, one hundred twenty-five (125) feet to the point of beginning; being parts of Lots Nos. Fifty-four (54) and Fifty-six (56), Chestnut Street, Original Plan of the Town of Chattanooga.

TOGETHER WITH the right and easement to extend the foundation footings for the building on the above-described property, as set forth in an Instrument executed by C. E. James and Kate W. James, his wife, on the 19th day of October, 1921, of record in Book I, Vol. 16, Page 546, in the Register's Office of Hamilton County, Tennessee.

Reference is made for prior title to Book 2364, Page 407, in the Register's Office of Hamilton County, Tennessee.

EXHIBIT B

Firehall Parcel

A certain tract or parcel of land in Chattanooga, Hamilton County, Tennessee, described as follows, to-wit:

LAND DISPOSITION PARCEL C-8 and more particularly described as follows: BEGINNING at a point in the North line of West 9th Street, said point being North 239,591.75 East 2,204,077.35, said point also being located twenty-five (25) feet on a line North 65 degrees 55 minutes West from the point of intersection of the West line of West 6th Street (proposed) and the North line of West 9th Street, said point or intersection being North 239,581.55 East 2,204,100.17; thence North 65 degrees 55 minutes West along the North line of West 9th Street a distance of One Hundred Seventy-five and 00/100 (175.00) feet to a point, said point being North 239,663.16, East 2,203,917.58; thence North 24 degrees 05 minutes East a distance of Two Hundred Twenty-nine and 00/100 (229.00) feet to a point in the South line of Arcadia Avenue (proposed), said point being North 239,872.24 East 2,204,011.03; thence South 63 degrees 20 minutes East along the South line of said Arcadia Avenue a distance of Two Hundred and 33/100 (200.33) feet to a point, said point being the point of intersection of the South line of said Arcadia Avenue and the West line of West 6th Street (proposed), said point also being North 239,782.33, East 2,204,190.05; thence Southwestwardly along a 507.46 foot radius curve to the left of the West line of said West 6th Street a distance of eleven and 60/100 (11.60) feet to the point of tangency of said curve, said point being North 239,771.81 East, 2,204,185.21; thence South 24 degrees 05 minutes West along the West line of said West 6th Street a distance of One Hundred Eighty-three and 41/100 (183.41) feet to a point, said point being North 239,604.37, East 2,204,110.37; thence Westwardly along a 25 foot radius curve to the right a distance of Thirty-nine and 27/100 (39.27) feet to the point of beginning and containing 44,766 square feet all as shown by plat of survey prepared by Schmidt Engineering Company, Inc. and marked Drawing Number 335D-17 attached hereto and made a part of hereof. The positions of corners and directions of lines are referred to the Tennessee Coordinate System.

Being the same property as conveyed by deed to City of Chattanooga by Deed dated February 13, 1963 of record in Book 1523, Page 351, in the Register's Office of Hamilton County, Tennessee.

EXHIBIT C

City – Park Parcel

A portion of the property as described in Deed Book 2208, Page 673, in the Register's Office of Hamilton County, Tennessee. Said property is shown on Tax Map 135N, Group "B", Parcel 5.01, property is also a part of Land Disposition Parcel G13, Golden Gateway Urban Renewal Project Number Tennessee R-10, property is located in the City of Chattanooga, Hamilton County, Tennessee being more particularly described as follows:

BEGINNING at an existing iron rod found, having Tennessee State Grid Coordinates of North=241,865.064 and East=2,204,223.712 (NAD 29) all bearings and distances are based on Tennessee State Grid system, said iron rod is located on the Southern margin of Riverfront Parkway and marks the Northwest corner of the property;

THENCE North 82 degrees, 51 minutes, 42 seconds East a distance of 131.75 feet to an iron rod set;

THENCE North 72 degrees, 47 minutes, 42 seconds East a distance of 60.56 feet to an iron rod set;

THENCE North 77 degrees, 06 minutes, 12 seconds East a distance of 187.18 feet to an iron rod set;

THENCE South 87 degrees, 33 minutes, 12 seconds East a distance of 119.01 feet to an iron rod set, said iron rod is located on the Western margin of Highway 27 and marks the Northeast corner of the property;

THENCE South 14 degrees, 18 minutes, 52 seconds East a distance of 37.00 feet along the Western margin of Highway 27 to an iron rod set;

THENCE South 22 degrees, 44 minutes, 27 seconds East a distance of 209.45 feet along the Western margin of Highway 27 to an iron rod set;

THENCE South 14 degrees, 18 minutes, 52 seconds East a distance of 147.54 feet along the Western margin of Highway 27 to an iron rod set, said iron rod is located on the Northeast corner of the First Baptist Church property as described in Deed Book 1650, Page 669;

THENCE South 64 degrees, 12 minutes, 00 seconds West a distance of 54.66 feet along the Northern boundary line of the First Baptist Church property to an iron rod set;

THENCE South 09 degrees, 45 minutes, 00 seconds West a distance of 327.34 feet along the Northwestern boundary line of the First Baptist Church property to an iron rod set on the Eastern margin of Cameron Circle, said iron marks the Southeast corner of the property;

THENCE with a curve to the right (clockwise) along the Eastern margin of Cameron Circle, said curve having a radius of 287.70 feet, a central angle of 25 degrees, 07 minutes, 47 seconds, an arc length of 126.18 feet, and a tangent of 64.12 feet to an iron rod set at the point of tangency;

THENCE North 08 degrees, 24 minutes, 00 seconds West a distance of 109.54 feet along the Eastern margin of Cameron Circle to an iron rod set at the point of curvature;

THENCE with a curve to the left (counter clockwise) along the Eastern Margin of Cameron Circle, said curve having a radius of 263.86 feet, a central angle of 41 degrees, 31 minutes, 57 seconds, an arc length of 263.86 feet, and a tangent of 100.05 feet to an iron rod set at the end of Cameron Circle, public road right-of-way;

THENCE South 40 degrees, 04 minutes, 03 seconds West a distance of 60.00 feet along the end of Cameron Circle, public road right-of-way, to an iron rod set on the Western margin of Cameron Circle;

THENCE with a curve to the right (clockwise) along the Western margin of Cameron Circle, said curve having a radius of 203.86 feet, a central angle of 41 degrees, 31 minutes, 57 seconds, an arc length of 147.77 feet, and a tangent of 77.30 feet to an iron rod set at the point of tangency;

THENCE South 08 degrees, 24 minutes, 00 seconds East a distance of 109.54 feet along the Western margin of Cameron Circle to an existing iron rod found, said iron rod is located on the Northern boundary line of the Cameron-Oxford Associates property as described in Deed Book 2146, Page 966;

THENCE South 90 degrees, 00 minutes, 00 seconds West a distance of 175.00 feet along the Northern boundary line of the Cameron-Oxford Associates property to an existing iron rod found, said iron rod marks the Southwest corner of the property;

THENCE North 34 degrees, 06 minutes, 36 seconds West a distance of 230.97 feet along the Northeastern boundary line of the Cameron-Oxford Associates property to an existing iron rod found;

THENCE North 46 degrees, 59 minutes, 56 seconds West a distance of 71.92 feet along the Northeastern boundary line of the Cameron-Oxford Associates property to an existing iron rod found;

THENCE North 00 degrees, 00 minutes, 00 seconds West a distance of 95.00 feet along the Eastern boundary line of the Cameron-Oxford Associates property to an existing iron rod found;

THENCE North 13 degrees, 56 minutes, 12 seconds West a distance of 210.18 feet along the Eastern boundary line of the Cameron-Oxford Associates property to the POINT OF BEGINNING.

Said property herein described contains 6.125 acres, more or less.

Subject to an easement for ingress/egress and utilities as mentioned in Deed Book 2208, Page 673, and described in Exhibit "B" in Deed Book 2208, Page 681 as Cameron Circle right-of-way extension being more particularly as follows:

BEGINNING at an iron rod set at the end of Cameron Circle, public road right-of-way, on the Western margin of Cameron Circle;

THENCE with a curve to the left (counter clockwise) having a radius of 65.49 feet, a central angle of 86 degrees, 36 minutes, 42 seconds, an arc length of 99.90 feet, and a tangent of 61.73 feet to an iron rod set at the point of tangency;

THENCE South 43 degrees, 27 minutes, 21 seconds West a distance of 73.44 feet to an iron rod set at the point of curvature;

THENCE with a curve to the right (clockwise) having a radius of 196.09 feet, a central angle of 16 degrees, 28 minutes, 35 seconds, an arc length of 56.39 feet, and a tangent of 28.39 feet to an iron rod set on the Northeastern boundary line of the Cameron-Oxford Associates property;

THENCE North 34 degrees, 06 minutes, 36 seconds West a distance of 60.22 feet along the Northeastern boundary line of the Cameron-Oxford Associates property to an existing iron rod found;

THENCE with a curve to the left (counter clockwise) having a radius of 136.09 feet, a central angle of 18 degrees, 15 minutes, 50 seconds, an arc length of 43.38 feet, and a tangent of 21.88 feet to an iron rod set at the point of tangency;

THENCE North 43 degrees, 27 minutes, 21 seconds East a distance of 73.44 feet to an iron rod set at the point of curvature;

THENCE with a curve to the right (clockwise) having a radius of 125.49 feet, a central angle of 86 degrees, 36 minutes, 42 seconds, an arc length of 189.70 feet, and a tangent of 118.28 feet to an iron rod set at the end of Cameron Circle, public road right-of-way;

THENCE South 40 degrees, 04 minutes, 03 seconds West a distance of 60.00 feet along the end of Cameron Circle, public road right-of-way, to the POINT OF BEGINNING.

Said easement herein described contains 0.369 acres, more or less.

Subject to Electric Power Board easements as recorded in Deed Book 2168, Page 871.

**EXHIBIT B
TO RESOLUTION
(Lease)**

LEASE

THIS LEASE, made to be effective this _____ day of _____, 2005 (the "Effective Date"), by and between the **CITY OF CHATTANOOGA** ("Landlord") and **BLUECROSS BLUESHIELD OF TENNESSEE, INC.**, a Tennessee corporation ("Tenant").

WITNESSETH:

Landlord leases and demises to Tenant, and Tenant hereby leases and rents from Landlord, certain real property and the building and other improvements located thereon, having an address of 730 Chestnut Street, Chattanooga, Hamilton County, Tennessee, which premises are more particularly described on **Exhibit "A"** attached hereto and incorporated herein together with all easements and rights appurtenant thereto (collectively the "Premises").

The following additional stipulations are hereby declared to be provisions of this Lease, and shall, unless otherwise expressly stated, be applicable at all times throughout the Term (as defined below) and any extensions or renewals thereof:

1. **Term and Rental.**

(a) The term hereof shall begin upon the Effective Date and shall expire on March 1, 2009, unless renewed or extended ("Term"). The term "lease year" shall mean the one (1) year period commencing on the date hereof and each similar period thereafter.

(b) Tenant shall pay an annual fixed rental to Landlord for the Premises of One and No/100 Dollars (\$1.00). In addition, Tenant shall pay to Hamilton County and to Landlord as additional rent an amount equal to the respective ad valorem taxes that would otherwise be applicable to the Premises if it were not owned by a tax exempt entity, net of any ad valorem leasehold taxes that Tenant is required to pay with respect to the Premises. All such amounts shall be paid when due, beginning on the Effective Date. Tenant will also pay as additional rent all other amounts, liabilities and obligations which Tenant herein assumes or agrees to pay, and in the event of any failure on the part of the Tenant to pay any such amounts, liabilities or obligations, Landlord shall have all rights, powers and remedies provided for herein in the case of nonpayment of a monetary obligation.

(c) Provided Tenant is not in default under the terms of this Lease, Tenant shall have two (2) options, exercisable by written notice to Landlord on or before ninety (90) days prior to the scheduled termination date, to extend this Lease for one (1) year each. The terms and conditions of this Lease shall be applicable for each renewal period. At any time during the extended Term (after March 1, 2009), Tenant shall also have the option, exercisable by written notice to Landlord upon ninety (90) days written notice, to terminate this Lease, at

which time the obligations of both parties hereunder shall be null and void, provided that this will not relieve Tenant of any of its obligations arising prior to the date of such termination.

(d) From and after the date hereof, Tenant agrees to pay all taxes or levies of every kind and character, which may be imposed on the Premises by any taxing authority or governmental agency with power to tax, and shall cause the same to be paid when due before they shall become delinquent. Tenant shall furnish to Landlord a copy of the paid tax receipt upon the payment of such tax. In the event any sales, use or other tax, except for an income tax, is levied upon the rents reserved in this Lease by the United States of America, State of Tennessee, Hamilton County or the City of Chattanooga, or any other governmental entity having jurisdiction, such taxes shall be paid by Tenant. In the event Tenant fails to pay any such tax or levy when due, Landlord may pay such tax on behalf of Tenant and Tenant shall pay to Landlord all such amounts as additional rent.

(e) All rental payments to Landlord shall be payable and sent to Landlord at _____, or to such other place or places as Landlord may from time to time designate in writing.

2. **Tenant's Fixtures; Alterations.** Tenant shall be permitted to install, use on and about, and remove (subject to repairing all damage caused by such removal) at any time or times all equipment, signs and trade fixtures installed by Tenant. Tenant shall not make any additions, alterations or modifications to the improvements located on the Premises costing more than Twenty-Five Thousand and No/100 Dollars (\$25,000.00) without the consent of Landlord, which will not be unreasonably withheld or delayed.

3. **Casualty Insurance.** Tenant, at Tenant's expense, throughout the Term and any extension or renewal thereof, shall keep the Premises fully insured against loss, damage or casualty by any means with a company and in an amount approved by Landlord. Tenant shall pay all premiums for such insurance policy as such becomes due and shall deliver to Landlord the receipts therefor. All such insurance shall be for the benefit of Landlord and shall be payable to Landlord and Tenant shall deliver to Landlord a certificate from the insurer evidencing the existence of the policy and showing the interest of Landlord. Such certificate shall also provide that the subject policy may not be canceled except upon not less than thirty (30) days advance notice to Landlord. Originals of all policies of insurance required pursuant hereto and all renewals thereof shall be delivered to Landlord. If Tenant shall at any time fail to keep the Premises insured as herein required, Landlord may do all things necessary to effect or maintain such insurance and any monies expended by Landlord for such purpose shall be payable by Tenant on demand. In the event that more than twenty-five percent (25%) of the Premises is destroyed or in the event a portion of the Premises are destroyed in such a way as to render the Premises as a whole unuseable by Tenant and Tenant cannot repair such damage within sixty (60) days, Tenant shall have the right to terminate this Lease and shall have no further obligation to pay Rent or the other costs hereunder. In the event Tenant elects to terminate this Lease, then Tenant shall pay Rent and all other amounts due hereunder up to and through the date of the damage or casualty. Tenant shall be solely responsible for insuring its personal property located at the Premises.

4. **Repairs.** Tenant, at its expense, shall be solely responsible for maintaining the Premises and the building and other improvements thereon and shall cause to be made all repairs and replacements necessary to keep the Premises and the building and other improvements thereon in the same condition as of the date hereof, normal wear and tear and damage by casualty excepted. Tenant shall also police the Premises for trash and keep the Premises in a neat and clean condition. Tenant's maintenance obligation shall include, but not be limited to, the repair and maintenance (and replacement when necessary) of all mechanical systems and equipment serving the Premises, including, but not limited to, the HVAC system and equipment and plumbing system and equipment. Tenant agrees that Landlord shall have no obligation under this Lease to make any repairs or replacements to the Premises or the improvements thereon.

5. **Condemnation.**

(a) In the event that twenty-five percent (25%) or more of the Premises shall be taken or in the event the Premises are rendered unusable by Tenant or it materially hampers Tenant's operations during the Term or any extension or renewal thereof for any public or quasi-public use under any governmental law, ordinance, regulation or by right of eminent domain, or shall be sold to the condemning authority under threat of condemnation (any of such events being hereinafter referred to as a "taking"), Tenant shall have the option of terminating this Lease (and shall have no further obligations to pay rent or other costs hereunder) as of a date no earlier than the date of such taking, such termination date to be specified in a notice of termination to be given to Landlord not less than fourteen (14) days prior to the date on which possession of the Premises, or part thereof, must be surrendered to the condemning authority or its designee.

(b) In the event of a taking pursuant to the terms of subparagraph (a) above, and Tenant does not elect to terminate this Lease, or in the event of a taking which does not give rise to a right to terminate, Landlord may elect to either terminate this Lease or, to the extent of Landlord's award from such taking (which word "award" shall include any settlement, or purchase price under a sale in lieu of condemnation) promptly restore, replace or repair the Premises and all buildings and improvements thereon, to the same condition as existed immediately prior to such taking insofar as is reasonably possible. Rent shall abate with respect to the unusable portion of the Premises during the period in which such repairs are being made and Rent shall be ratably reduced to account for the portion of the Premises no longer useable by Tenant except to the extent Tenant has been compensated for such taking through a separate award.

(c) In the event of a taking, any award attributable to the Premises and all improvements thereon shall be paid to Landlord. Nothing herein shall affect Tenant's rights to any awards from the condemnor for (i) moving or similar expenses, (ii) Tenant's loss, damage or inconvenience to its business, and (iii) attorneys' and appraisers' fees and other costs, expenses and allowances.

6. **Utilities.** Tenant shall pay for all public utility connections charged by governmental authorities and for all utility services used or consumed by it, including but not limited to, gas, electric, water, sewer and telephone. Tenant shall contract for all such utilities in

its own name. Landlord shall not be liable (and Rent shall not abate) for any interruption of utility service to the Premises, unless caused by Landlord or its contractors, employees or agents.

7. **Quiet Enjoyment.** Landlord covenants and warrants that Landlord has good and marketable title in fee simple to the Premises, and that Tenant shall have and enjoy full, quiet and peaceful possession of the Premises, the appurtenances and all rights, easements and privileges incidental thereto subject to the provisions of this Lease and any easements, restrictions, reservations and other instruments of record applicable to the Premises. Tenant acknowledges that it has inspected the Premises and accepts the same "As Is." Tenant assumes responsibility for the safety of the Premises and for the suitability of the Premises for Tenant's use. Landlord makes no warranties, express or implied, regarding the condition of the Premises and its suitability for any particular purpose or use.

8. **Default.**

(a) Default in the performance of any covenant, agreement, obligation or condition herein, or breach of any warranty or representation herein by Tenant, or voluntary institution of any insolvency proceedings or steps, as debtor or insolvent, on the part of Tenant, or involuntary insolvency proceedings brought against Tenant which are not dismissed within sixty (60) days, shall entitle Landlord, at its option, to terminate this Lease, if after giving written notice to Tenant of such intention to terminate, setting forth the ground thereof, Tenant does not within ten (10) days in case of a monetary default and within thirty (30) days in case of other defaults, remedy such ground or grounds for termination. Landlord may, at its option, and in lieu of its other rights and remedies, correct such default and charge the reasonable cost thereof to Tenant, which charge shall constitute a legal and valid debt of Tenant. Upon any such termination for default of Tenant, Landlord, its agent or attorney, shall have the right, without further notice or demand, to re-enter and remove all persons and Tenant's property therefrom without being deemed guilty of any manner of trespass, or Landlord, its agent or attorney, may resume possession of the Premises and re-let the same for the remainder of the Term at the best rent Landlord, its agent or attorney, may obtain, making reasonable efforts in connection therewith for the account of Tenant, which shall make good any deficiency.

(b) In addition to the foregoing rights, Landlord shall have such other and further rights as are allowed by law or in equity or which are otherwise provided in this Lease. Failure to exercise any right hereunder on any one or more occasions shall not be deemed a waiver of such right or any subsequent right. In the event Tenant is in default in the performance of any term, covenant, agreement or condition contained in this Lease, Tenant shall reimburse Landlord for all costs and expenses, including without limitation, court costs and reasonable attorney's fees incurred by Landlord in protecting its interests, regardless of whether litigation is involved.

9. **Notices.** All notices herein provided for shall be in writing and sent by hand delivery or registered or certified mail, postage fully prepaid, return receipt requested, or by a nationally recognized overnight courier service, to Landlord and Tenant as follows:

Landlord:

City of Chattanooga

Chattanooga, TN 37402

Attention: _____

Tenant:

BlueCross BlueShield of Tennessee, Inc.

801 Pine Street

Chattanooga, TN 37402

Attention: Mr. Robert E. Worthington, Senior Vice

President Business Operations

Any party may change its address for notices by written notice in like manner as provided in this paragraph. Notice for purposes of this Lease shall be deemed given upon actual receipt.

10. **Liability Insurance.** Tenant shall maintain, at its own expense, public liability insurance covering the Premises for the joint benefit of Tenant and Landlord, with coverage of not less than \$1,000,000.00 for personal injury, including death, and \$500,000.00 for property damage. A certificate of such insurance shall be delivered to Landlord showing Landlord as an additional insured (or if elected by Landlord, loss payee) and shall also provide that the subject policy may not be canceled except upon not less than thirty (30) days advance notice to Landlord. If at any time Tenant shall fail to maintain the insurance required hereby, Landlord may at its option do all things necessary to obtain such insurance and any monies expended by Landlord for such purpose shall be payable by Tenant on demand. Such liability insurance shall also cover and include all exterior signs maintained by Tenant.

11. **Holding Over.** Tenant shall peacefully surrender possession of the Premises to Landlord at the expiration, or earlier termination, of this Lease. Any holding over by Tenant of the Premises after the expiration of this Lease shall operate and be construed as a tenancy from month to month only, subject, however, to all other provisions of this Lease. --

12. **Waiver of Subrogation.** Notwithstanding anything in this Lease to the contrary, neither party shall be liable to the other for damage to or destruction of the property of the other resulting from fire, explosion, or other hazard coverable by comprehensive property insurance with extended coverage, however caused, whether or not by the negligence of such party (which term includes officers, employees, agents and invitees), and each party hereby expressly releases the other from all liability for or on account of any such damage or destruction, whether or not such party is insured against any such loss, and if insured, whether fully or partially. Each party shall procure if necessary all such endorsements to any such insurance carried by it as will fully protect the other from any right of subrogation and liability in the event of such loss.

13. **Successors and Assigns.** The covenants, conditions and agreements contained in this Lease shall bind and inure to the benefit of Landlord and Tenant and their respective successors and assigns.

14. **Entire Agreement.** This Lease contains all the agreements between the parties hereto and may not be modified in any manner other than by agreement in writing signed by both the parties hereto and their successors in interest. This Lease shall be interpreted in accordance with the laws of the State of Tennessee.

15. **Genders.** Whenever the context hereof admits or requires, words in the singular may be regarded as in the plural and vice-versa, and personal pronouns may be read as masculine, feminine and neuter.

16. **Assignment and Subletting.** Tenant shall have the right to assign this Lease or sublet the Premises to any other party only with the prior written consent of Landlord, which consent shall not be unreasonably withheld or delayed, provided that such assignment will not relieve Tenant from its primary obligation hereunder.

17. **Estoppel Letters.** Tenant shall, upon request, promptly execute estoppel letters in form and content reasonably acceptable to Tenant regarding this Lease and its operations hereunder.

18. **Permitted Uses; Compliance With Laws.** Tenant shall have the right to use the Premises for general office use and all uses incidental thereto. Tenant may use the Premises for any other lawful use with the prior written consent of Landlord not to be unreasonably withheld or delayed. In the use and occupancy of the Premises, Tenant shall comply with all laws and ordinances and all valid rules and regulations of the United States, the State of Tennessee, the County of Hamilton, the City of Chattanooga, and any other applicable government or agency having authority.

Tenant shall not install, use or operate or permit to be installed, used or operated within the Premises, any hazardous substance or material or any substance or material which fails to comply with any and all applicable federal, state or local laws and regulations as now or hereafter in effect. The terms "hazardous substance" or "hazardous material" include without limitation asbestos, fluids containing polychlorinated biphenyls, pesticides or other toxic substances or materials. Tenant shall permit Landlord and Landlord's agents and environmental consultants and engineers access to the Premises for the purpose of environmental inspections during regular business hours or during other hours either by agreement of the parties or in the event of an environmental emergency. Tenant promptly will furnish Landlord with any notice which Tenant receives from any governmental authority that Tenant or the Premises are or may be in violation of applicable federal, state or local laws or regulations. Tenant shall indemnify, defend and hold harmless Landlord from and against all claims, liabilities, losses, damages and costs, foreseen and unforeseen, including without limitation, counsel, engineering and other professional or expert fees which Landlord may incur by reason of Tenant's action or non-action with regard to Tenant's obligations under this Section.

19. **Indemnification**. Tenant shall indemnify and hold Landlord harmless from and against any and all liability and expense of any kind, including reasonable attorneys' fees, arising from injuries or damages to persons or property resulting in any way from any act or negligence of Tenant, its contractors, agents, or employees, or arising from any default in any obligations of Tenant hereunder. Landlord shall indemnify and hold Tenant harmless from and against any and all liability and expense of any kind, including reasonable attorneys' fees, arising from injuries or damages to persons or property resulting in any way from any act or negligence of Landlord, its contractors, agents or employees or arising from any default in any obligation of Landlord hereunder.

20. **Net Lease**. It is the intention of the parties hereto that this Lease is and shall be treated as a triple net lease to Landlord and Tenant shall not be entitled to any abatement, suspension, deferment, reduction, setoff, counterclaim, or defense with respect to the payment of Rent hereunder, except as provided herein.

21. **Short Form Lease**. At the request of either Landlord or Tenant, the parties agree to file with the Register's Office of Hamilton County, Tennessee a short-form or memorandum of lease at the request of either party.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed the day and date first above written.

LANDLORD:

CITY OF CHATTANOOGA

By: _____

Print Name: _____

Title: _____

TENANT:

**BLUECROSS BLUESHIELD OF TENNESSEE,
INC., a Tennessee corporation**

By: _____

Vicky Gregg, President and CEO

EXHIBIT "A"

730 Chestnut Building Parcel

In the City of Chattanooga, Hamilton County, Tennessee:

BEGINNING at the Northeast corner of Chestnut and West Eighth Streets; thence running in an Eastwardly direction along the Northern boundary line of West Eighth Street one hundred ten (110) feet to a point; thence in a Northwardly direction, parallel to Chestnut Street one hundred twenty-five (125) feet to a point; thence in a Westwardly direction, parallel to West Eighth Street, one hundred ten (110) feet to a point in the Eastern boundary line of Chestnut Street; thence in a Southwardly direction along the Eastern boundary line of Chestnut Street, one hundred twenty-five (125) feet to the point of beginning; being parts of Lots Nos. Fifty-four (54) and Fifty-six (56), Chestnut Street, Original Plan of the Town of Chattanooga.

TOGETHER WITH the right and easement to extend the foundation footings for the building on the above-described property, as set forth in an Instrument executed by C. E. James and Kate W. James, his wife, on the 19th day of October, 1921, of record in Book I, Vol. 16, Page 546, in the Register's Office of Hamilton County, Tennessee.

Reference is made for prior title to Book 2364, Page 407, in the Register's Office of Hamilton County, Tennessee.