

# COUNTY OF WARREN

## Office of the County Attorney

220 North Commerce Avenue, Suite 100

Front Royal, Virginia 22630

Phone: (540) 636-6674

FAX: (540) 636-6980

e-mail: [dnapier@shentel.net](mailto:dnapier@shentel.net)

[jgrim@shentel.net](mailto:jgrim@shentel.net)

**Douglas W. Napier**

County Attorney

**Jennifer A. Grim**

Administrative Asst.



### BOARD OF SUPERVISORS

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**Douglas P. Stanley**

County

Administrator

January 16, 2002

Mr. Josh Douglas  
High Knob Owners' Association  
16 Windy Way, 1<sup>st</sup> Floor  
Front Royal, Virginia 22630

Dear Mr. <sup>Josh</sup>Douglas:

This is to confirm that the Warren County Board of Supervisors, at its regular meeting of January 15, 2002, entered into the enclosed agreement with High Knob Owners' Association, Inc. to manage the High Knob Sanitary District.

The Board of Supervisors also authorized advertisement of a public hearing to be held February 19, 2002 beginning at 8:00 p.m.

Should you have any questions, please do not hesitate to contact me.

Sincerely yours,

Douglas W. Napier  
County Attorney

Enclosure

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**THIS AGREEMENT** made and dated this 15<sup>TH</sup> day of JANUARY, 2002, by and between the **BOARD OF SUPERVISORS OF WARREN COUNTY, VIRGINIA**, hereinafter referred to as the Governing Body; and the **HIGH KNOB OWNER'S ASSOCIATION, INC.**, hereinafter referred to as HKOA.

*Whereas*, by Order of the Circuit Court of Warren County, Virginia, dated November 19, 2001, a Sanitary District has been created encompassing that portion of the High Knob Subdivision in Warren County, Virginia, being more particularly described as being that area contained within Paragraph 5 of the findings of said Order and being on file at the Warren County Clerk's Office in Chancery File H01000177-00, styled: "In Re: Proposed New Sanitary District in the Subdivision of High Knob, Happy Creek Magisterial District of Warren County," and

*Whereas*, Section 21-118 and 21-118.4 of the Code of Virginia provides that the Governing Body through Sanitary Districts is empowered to act as stated in that section;

*Whereas*, the Governing Body, by this Agreement contracts with HKOA for the purpose of providing the services it is empowered to provide in Chapter 2, Title 21 of the Virginia Code for sanitary districts.

*Witnesseth*: That for and in consideration of the mutual covenants and conditions herein contained, the parties hereto agree as follows:

1. The Governing Body, after receiving a recommendation from HKOA and holding public hearing shall fix and prescribe an annual tax or charge upon all the property in the said Sanitary District subject to local taxation and shall levy and collect such annual tax or charge, and make available monies so collected to HKOA to pay the expenses and charges incident to pay the expenses of all the purposes authorized by the

Warren County Circuit Court in the said Order dated November 19, 2001, related to this Sanitary District.

2. HKOA shall prepare and submit an annual proposed budget addendum in accordance with the deadline fixed by the Governing Body for its fiscal year. The Governing Body shall give HKOA at least 60 days' notice of the deadline. Said annual proposed budget addendum shall specify the amount needed and proposed for each of the categories of purpose and duties embraced by this Agreement in such detail as may be required by the Governing Body. Such proposed budget addendum shall be considered by the Governing Body, and such amount as approved by the Governing Body shall be the operating budget of HKOA with respect to sanitary district funds for said fiscal year. Actual expenditures in any of said categories shall not exceed such percentage of the entire approved budget as may be specified by the Governing Body without the prior approval of the Governing Body.

3. The Governing Body will appropriate and make available to HKOA in the month of January the monies so budgeted provided the monies collected as aforesaid are sufficient and adequate to meet the sums budgeted. In the event that there have been insufficient monies collected to meet the amount budgeted, the Governing Body will appropriate and make available in January such available monies, and will appropriate and make available in April and again in June whatever additional monies that have been collected and are available to meet but not exceed the amount budgeted. In the event the monies collected as aforesaid exceed the sums so budgeted, the excess of the monies collected over the sums budgeted may be retained by the Governing Body and the funds

set aside for the purpose and applied by the Governing Body to the budget of HKOA for the succeeding fiscal year.

4. The Governing Body shall retain from those monies to be made available under the provisions of Paragraph 3, an amount sufficient to cover its expenses and costs in administering and performing this Agreement. HKOA shall have access to cost data and to data on delinquent accounts upon request and reasonable notice.

5. Upon termination of this Agreement, all unused funds appropriated to HKOA shall be returned and refunded by HKOA to the Governing Body for use in the Sanitary District.

6. HKOA shall manage and use the money so appropriated for the following specified purposes and any other purposes authorized by Chapter 2, Title 21 of the Code of Virginia or the said Order of November 19, 2001, in Chancery No. H01000177-00 to include:

- (a) To employ and fix the compensation of any technical or clerical or other force and help which from time to time may be deemed necessary for the operation and maintenance of the systems heretofore referred.
- (b) To maintain and operate existing parking lots, streets, street signs and water supply systems for the use and benefit of the public in said Sanitary District and to alter, improve or add to such systems where it is deemed necessary by HKOA and funds are available.
- (c) To maintain and improve common areas belonging to HKOA and to provide for the security authorized by the Court's Order and Virginia Code Section 21-118(11), as budgeted.

- (d) To purchase, lease, maintain and operate equipment machinery and vehicles for the purposes and systems herein set forth.
- (e) To negotiate and contract with any person, firm, corporation, County authority or municipality with regard to any matter necessary and proper for the operation and maintenance of such systems within said Sanitary District.
- (f) To purchase liability, hazard, workmen's compensation and fidelity bond insurance to indemnity, in whole or in part, HKOA and its officers, agents, directors and employees for acts performed by such persons or by any immediate or remote subcontractor, agent or employee.

7. The Governing Body, its officers, agents and employees shall not in any manner be liable, answerable or responsible for any loss or damage to the work or any part thereof, to any materials, building or equipment or other properties that may be used or employed or placed on any work site located with said Sanitary District, or any injury done or damages or compensation required to be paid under any present or future law to any person, whether an employee, contractor or otherwise, or for any damage or injury to any property or person which occurs during or results from the work.

8. The Governing Body, its agents, inspectors and representatives shall at all times have unrestricted access to all parts of the work and other phases where or in which the preparation of materials or other integral parts of the work are being carried on and conducted with the Sanitary District. HKOA shall provide all facilities and assistance required or requested to carry out the work of supervision and inspection by the Governing Body or its agents, inspectors or representative. Inspection of the work by the

Governing Body or its representatives shall in no manner be presumed or inferred to relieve any of the agreed responsibilities or obligations of HKOA or to constitute HKOA as an agent of the Governing Body.

9. Reasonable precaution shall be exercised by HKOA at all times for the protection of all persons and properties. Safety provisions of all applicable laws of building and construction codes shall be observed.

10. HKOA and every person contracted to do any work contemplated by this Agreement shall keep itself or himself fully informed of all Federal, State and County laws, ordinances, or regulations in any manner affecting the work and performance of this Agreement. HKOA shall indemnify the Governing Body, its officers, agents and employees against any claim or liability arising from or based on the violation of any laws, ordinances or regulations.

11. HKOA shall not use Sanitary District funds for the purchase of machinery, equipment, or property or to enter into a lease for same if the purchase price or lease exceeds \$500.00 unless such purchase or lease was specifically provided for in the approved budget addendum or is approved by the Governing Body. HKOA shall secure out of its appropriated funds necessary certificates and permits from public authorities required in connection with the work required by this Agreement or any part hereof and shall give all notices required by law, ordinances or regulations and pay all fees or charges incident or due to the lawful prosecution of the work contemplated by this Agreement.

12. If HKOA: (a) is adjudged bankrupt; (b) makes a general assignment for the benefit of its creditors; (c) has a receiver appointed on account of its insolvency; (d)

in the judgment of the Governing Body fails to perform its duties in a satisfactory manner in relation to its budget or fails to make prompt payment for materials or labor; (e) persistently disregards laws, ordinances, or instructions of the Governing Body; (f) ceases operations under this Agreement at any time for a period of thirty (30) working days; or (g) is otherwise guilty of the substantial violation of any provision of this Agreement, then the Governing Body may upon thirty (30) days written notice, terminate this Agreement.

13. The written terms and provisions of this Agreement shall supercede all prior verbal statements of any officer or other representative of the Governing Body and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner whatsoever this Agreement.

14. Neither HKOA or any subcontractor, supplier of materials or person shall file or maintain against Governing Body any lien for materials delivered, for use in or services performed for work done in the performance of this contract. The right to maintain such a lien for any or all of the above parties is hereby expressly waived.

15. HKOA will furnish Governing Body with satisfactory evidence that all persons who have done work or furnished materials under this Agreement and would otherwise be entitled to liens under the State of Virginia have been fully paid or are no longer entitled to such liens. The Governing Body or any of its duly authorized representative or officers or agents shall have access to and the right to examine directly pertinent books, documents, papers and records of HKOA involving transactions relating to this Agreement.

16. All work under this Agreement shall be performed in a reasonably skillful and workmanlike manner.

17. HKOA shall submit to the Governing Body upon request, such quantities and costs, price schedules, payrolls, reports, estimates, records and other data as Governing Body may require concerning work and duties to be performed under this Agreement.

18. HKOA shall look for payment only to such funds as are appropriated and collected for said Sanitary District for the cost and work duties embraced in this Agreement. HKOA shall not require the Governing Body to pay the costs or any part thereof out of any other fund.

19. The financial records shall be maintained by HKOA in such a manner that all receipts and expenditures of funds appropriated to the HKOA by the Governing Body in payment for services received under this Agreement may be separately identified and accounted for from all other HKOA funds. The HKOA shall have an audit performed annually by a Certified Public Accountant satisfactory to the Governing Body of its accounts and records. The audit shall include text of the account records and procedures sufficient to express an informed opinion of the HKOA's financial status. At the conclusion of the audit, auditors shall furnish the HKOA and the Governing Body its letter of opinion together with a written management report setting forth the results of the audit and the auditor's recommendation.

20. This Agreement shall be reviewed annually. This Agreement may be terminated by either party giving ninety (90) days prior written notice of intention to terminate the same. Unless this Agreement is terminated or modified, this Agreement

shall continue under the terms and conditions contained herein for successive one (1) year periods.

21. Parties hereto shall not discriminate against any person because of race, color, religion, sex or national origin.

22. Any owner of property within the High Knob Owners' Association Sanitary District shall have the right to attend meeting of HKOA. Property owners may be required to register with the HKOA in order to vote for the members of the HKOA Board. Owners may be required to pay a membership fee in accordance with the HKOA by-laws.

23. Any owner of property within the Sanitary District shall be able to receive reasonable notice of meetings of the HKOA Board and be permitted to speak to the HKOA Board on Sanitary District matters. Posting on the HKOA bulletin board shall be considered reasonable notice, although the HKOA may use additional methods such as a newsletter.

24. Records and financial information concerning matters related to the Sanitary District shall be made available by HKOA to any owner of property in the Sanitary District requesting such information. HKOA may establish reasonable procedures to govern the disclosure of such information, including charging a reasonable fee to cover the cost of disclosure.

***BOARD OF SUPERVISORS OF WARREN CO., VIRGINIA***

By: Stuart L. Randolph  
***Chairman***

Attest: [Signature]  
Clerk, Board of Supervisors

**HIGH KNOB OWNERS' ASSOCIATION, INC.**

Josh Douglas  
Chairman  
[Signature]  
Secretary

Attest:

State of Virginia:  
County of Warren, to-wit:

I, Janice C. Dearaway, a Notary Public, in and for the State and County aforesaid do hereby certify that **Stuart Rudacille, Chairman** and **Douglas P. Stanley, Clerk of the Board of Supervisors of Warren County**, whose names are signed to the foregoing document bearing the date of 1-15-02, have this day personally appeared and acknowledge the same before me in my State and County aforesaid.

Given under my hand this 22nd day of January, 2002.

My Commission expires: 2-28-05

Janice C. Dearaway  
Notary Public

State of Virginia:  
County of Warren, to-wit:

I, Lee Bucher, a Notary Public, in and for the State and County aforesaid do hereby certify that Josh Douglas **Chairman** and Douglas Stanley, **Secretary of High Knob Owners' Association, Inc.**, whose names are signed to the foregoing document bearing the date of 1/15/02, have this day personally appeared and acknowledge the same before me in my State and County aforesaid.

Given under my hand this 18 day of February, 2002.

My Commission expires: 2/28/05

Lee A. Bucher  
Notary Public