

**AGREEMENT BETWEEN BROWNING SCHOOL DISTRICT,
CUT BANK SCHOOL DISTRICT, AND
THE MONTANA SCHOOL BOARDS ASSOCIATION**

The Browning School District (hereinafter “Browning”) and Cut Bank School District (hereafter “Cut Bank”), collectively referred to as the “Districts,” hereby enter into this Informed Consent Agreement with the Montana School Boards Association (“MTSBA”) in accordance with the terms and conditions set forth herein.

WHEREAS, Browning has requested use of Cut Bank’s baseball field; and

WHEREAS, a proposed contract has been drafted setting forth terms and conditions for Browning’s use of the baseball field; and

WHEREAS, the Districts are both members of MTSBA, and, as such, MTSBA cannot become involved in legal issues/disputes between two members as that would be a conflict of interest for MTSBA without the informed consent of the Districts; and

WHEREAS, the MTSBA attorneys are bound by Montana Rules of Professional Conduct which require loyalty and independent judgment in the attorneys’ relationship to a client; and

WHEREAS, under the Montana Rules of Professional Conduct, resolution of a conflict of interest requires a lawyer to clearly identify the clients, determine whether a conflict of interest exists, decide whether the representation may be undertaken despite the existence of a conflict, i.e., whether the conflict is consentable), and, if so, consult with the clients affected and obtain the client’s informed written consent; and

WHEREAS, the Montana Rules of Professional Conduct provide that when representation of multiple clients in a single matter is undertaken, the information must include the implications of the common representation, including possible effects on loyalty, confidentiality and the attorney-client privilege and the advantages and risks involved. The purpose of this is to impress upon the clients the seriousness of the decision the client is making and to avoid disputes or ambiguities that might later occur.

NOW THEREFORE, in consideration of the terms and conditions set forth herein, the parties agree as follows:

1. Both Districts are members of MTSBA and as such it would be a conflict of interest for MTSBA to advise one or both of the Districts regarding the proposed contract.
2. The Districts understand and agree that they each have the option of and authority to retain their own independent legal counsel to advise them on this matter, and are declining to retain independent legal counsel at this time.

3. The Districts are each independently requesting the assistance of MTSBA regarding the proposed contract without any undue influence and of each Board of Trustees' own volition as reflected by the motion of the Districts' Board of Trustees to enter into this agreement.
4. The Districts each understand that with MTSBA's involvement in this process:
 - a. There are serious implications for each District in having MTSBA jointly represent the Districts in matters relating to the proposed contract;
 - b. MTSBA's loyalty will be to both Districts, i.e., MTSBA will not be loyal to one District to the detriment of the other District. MTSBA will not side with one District over the other; rather, MTSBA will act as a neutral party in advising both Districts of the legal options and implications of possible unification or joint board status;
 - c. MTSBA will jointly share all information regarding this matter with both Districts, i.e., MTSBA will not keep information from either District regarding its involvement in this matter as MTSBA will have an obligation to keep both Districts informed of issues on an equal and transparent basis;
 - d. Information may be shared with both Districts as attorney-client privileged communications but in MTSBA's role of facilitating discussions between the Districts regarding these matters, the attorney-client privilege will not exist given the requirement to comply with Montana's open meeting laws; and
 - e. There will may be both negative and positive implications for one or both Districts that will be shared by MTSBA with both Districts as each explores the possibility of unification or joint board status.
5. Both parties agree to sign a legal retainer agreement with MTSBA and agree to be responsible for one-half of the fees and expenses charged each month under said legal retainer agreement. MTSBA will bill each District separately each month for one-half of the fees and expenses incurred for the previous month. In addition to travel expenses (meals, mileage, hotel), the hourly fee schedule as set forth in MTSBA's legal retainer agreement are as follows:
 - a. \$225.00 per hour for Debra Silk (Attorney);
 - b. \$195.00 per hour for Tony Koenig (Attorney);
 - c. \$195.00 per hour for Kris Goss (Attorney);
 - d. \$185.00 per hour for Andrew Vigeland (Attorney); and
 - e. \$110.00 per hour for Karla Smerker (Paralegal).
6. Either District may revoke consent to having MTSBA involved in this process at any time upon written notification to MTSBA.
7. MTSBA may withdraw from representing the Districts under this MOA at any time if it determines that it cannot ethically continue with the representation of both Districts or if one District fails to timely pay its share of the fees and expenses associated with MTSBA's involvement in this matter.

THIS MOA is signed and dated this _____ day of January, 2023.

BROWNING SCHOOL DISTRICT

Board Chair

CUT BANK SCHOOL DISTRICT

Board Chair

MONTANA SCHOOL BOARDS ASSOCIATION

Authorized Representative