

ORDER AUTHORIZING FILING OF SUIT

STATE OF TEXAS §
COUNTY OF MONTGOMERY §

WHEREAS, Montgomery County is obligated by Subchapter I of Chapter 16 of the Tex. Water Code to adopt ordinances or orders, as appropriate, necessary for the County to be eligible to participate in the National Flood Insurance Program, and is thereby authorized to adopt more comprehensive flood management rules that the County determines are necessary for planning and appropriate to protect public health and safety to promulgate reasonable rules which are necessary for the orderly effectuation of the authorizations in said Subchapter I of Chapter 16 of the Tex. Water Code; and

WHEREAS, as required or authorized by Subchapter I of Chapter 16 of the Tex. Water Code, on July 14, 2014, Montgomery County Commissioners Court adopted the revised Flood Plain Management Regulations for Montgomery County, Texas which are on file in the office of the County Clerk of Montgomery County, Texas; and

WHEREAS, the said revised Flood Plain Management Regulations for Montgomery County, Texas are intended to discourage or otherwise restrict land development or occupancy in flood-prone areas and are necessary for planning and appropriate to public health and safety; and

WHEREAS, if it appears that a person has violated, is violating, or is threatening to violate Subchapter I of Chapter 16 of the Tex. Water Code, or a rule adopted or order issued under said subchapter, said subchapter authorizes Montgomery County to institute a civil suit in the appropriate court for (1) injunctive relief to restrain the person from continuing the violation or threat of violation, including an order directing the person to remove illegal improvements and restore preexisting conditions; (2) the assessment and recovery of a civil penalty of not more than \$100 for each act of violation and for each day of violation; or (3) both the injunctive relief and the civil penalty; and

WHEREAS, it appears that MBM Sand Company, LLC and Carl Hudspeth, individually and doing business as Skilled International, LLC have violated, is violating, or is threatening to violate Subchapter I of Chapter 16 of the Tex. Water Code, or one or more rules adopted by Montgomery County under said subchapter and has failed and refused to cease and desist as demanded by the Montgomery County Engineer and/or the Montgomery County Attorney; and

WHEREAS, on March 24, 2020, at a duly posted and called meeting of the Commissioners Court of Montgomery County, Texas, on motion of Commissioner _____, seconded by Commissioner _____, duly put and carried

by a vote of _____ in favor and _____ against that authorization be granted to the Montgomery County Attorney's Office to file suit on behalf of Montgomery County, Texas, Plaintiff, against MBM Sand Company, LLC and Carl Hudspeth, individually and doing business as Skilled International, LLC and/or any other necessary party for both the aforementioned injunctive relief and civil penalty and to seek any and all additional relief to which Montgomery County may be lawfully entitled;

NOW, THEREFORE, it is hereby ORDERED that the Montgomery County Attorney's Office is authorized to file suit on behalf of Montgomery County, Texas, Plaintiff, against MBM Sand Company, LLC and Carl Hudspeth, individually and doing business as Skilled International, LLC and/or any other necessary party for both the aforementioned injunctive relief and civil penalty and to seek any and all additional relief to which Montgomery County may be lawfully entitled and to do all things necessary to prosecute all phases of litigation, including appeal, and the Montgomery County Attorney is hereby exempted, pursuant to Tex. Civil Prac. & Rem. Code § 6.001(c), from being required to file a bond for court costs incident to this suit or for an appeal or writ of error (petition for review) taken out by the County Attorney and is not required to give a surety for the issuance of a bond to take out a writ of attachment, a writ of sequestration, a distress warrant or a writ of garnishment in said suit.

IT IS FURTHER ORDERED that the Montgomery County Attorney is authorized to incur expenses as necessary for the proper prosecution of said case. These expenses include but are not limited to mediation fees, court fees, court reporter fees, expert witness fees, deposition expenses, travel expenses, copy expenses, miscellaneous expenses (e.g., research), and general office supplies other than those budgeted for routine office expenses.

PASSED AND APPROVED on _____, 2020.

MONTGOMERY COUNTY, TEXAS

MARK KEOUGH, COUNTY JUDGE

ATTEST:

MARK TURNBULL
COUNTY CLERK