

BOROUGH OF MIFFLINBURG, UNION COUNTY, PENNSYLVANIA
RESOLUTION NO. 2026-____

A RESOLUTION AUTHORIZING THE PURCHASE OF WASTEWATER
TREATMENT PLANT MEMBRANE EQUIPMENT WITHOUT COMPETITIVE
BIDDING UNDER SECTION 1402(d) OF THE BOROUGH CODE.

WHEREAS, the membrane modules and racks in the membrane bioreactor system at the Borough's wastewater treatment plant (the "WWTP") are approximately seventeen years old, and have therefore reached the end of their useful life, and have deteriorated in performance; and

WHEREAS, the operational capacity of the WWTP's membrane bioreactor tanks limits the flow the WWTP can treat, and excess flow overflows the equalization tanks to Buffalo Creek; and

WHEREAS, the Pennsylvania Department of Environmental Protection ("DEP") issued an Administrative Order (attached hereto as Exhibit "A" and incorporated herein by reference) to the Borough dated April 16, 2026, finding that the WWTP had 21 unauthorized discharges of approximately 37.6 million gallons of partially treated sewage to Buffalo Creek between September 10, 2018, and March 27, 2026, in violation of The Clean Streams Law, 35 P.S. § 691.201, and DEP has asked the Borough to complete corrective action as quickly as possible; and

WHEREAS, FilmTec Corporation (DuPont/MemCor) has submitted Proposal No. A-423399 (attached hereto as Exhibit "B" and incorporated herein by reference) to replace the existing membrane modules (Base Item 1, \$846,600.00) and membrane racks (Option A, \$393,800.00), for a total of \$1,240,400.00 (the "Equipment"), which will not expand the WWTP or increase its permitted capacity; and

WHEREAS, the Borough's engineer, Herbert, Rowland & Grubic, Inc., has determined in its October 5, 2026 memorandum (attached hereto as Exhibit "C" and incorporated herein by reference) that only MemCor equipment is compatible with the WWTP's existing tanks, brackets, header connections, piping, and permitted design; and

WHEREAS, Section 1402(d) of the Borough Code, 8 Pa.C.S. § 1402(d), provides that the following contracts or purchases "shall not require advertising, bidding or price quotations":

"(1.1) Those for emergency maintenance, repairs or replacements for water, electricity or public works of the borough, if they do not constitute new additions, extensions or enlargements of existing facilities and equipment The actual emergency and the nature of the procurement shall be stated in a resolution by council and adopted at the next public meeting."

"(3) Those under which particular types, models or pieces of new equipment, articles, apparatus, appliances, computer software, vehicles or parts of vehicles are desired by council, which are patented and manufactured or copyrighted products."

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Mifflinburg as follows:

Section 1. Council finds that an actual emergency exists under Section 1402(d)(1.1). The emergency is the deterioration of the WWTP's membrane equipment, which has caused repeated discharges of partially treated sewage to Buffalo Creek, and is the subject of the DEP Administrative Order. The nature of the procurement is the direct purchase of the Equipment from FilmTec Corporation to avoid the delay of competitive bidding.

Section 2. Council further finds that the Equipment consists of patented and manufactured products available only from FilmTec Corporation and that its purchase is exempt under Section 1402(d)(3).

Section 3. The President of Council is authorized to execute a purchase agreement with FilmTec Corporation for the Equipment at a price not to exceed \$1,240,400.00, subject to the Borough Solicitor's approval of the final contract terms.

ADOPTED this _____ day of _____, 2026.

ATTEST:

BOROUGH OF MIFFLINBURG

Borough Secretary

By: _____
President of Council