CITY OF UMATILLA, OREGON

AGENDA BILL

Agenda Title:	Meeting Date:
TIME CERTAIN: 7:35pm. Resolution No. 15-2027. A Resolution of the City Council of the City of Umatilla, Oregon, declaring a Local State of Emergency pursuant to ORS 401.025 and ORS 401.309 due to the threat of widespread financial loss resulting from Governor Tina Kotek's October 9, 2026, Directive to the Oregon Department of Environmental Quality; establishing Findings of Fact; and authorizing appropriate emergency response measures.	October 20, 2026

Department:	Director:	Contact Person:	Estimated Time:
Administration	David Stockdale	David Stockdale	20 minutes

Cost of Proposal:	Fund(s) Name and Number(s):
n/a Amount Budgeted: n/a	

Reviewed by Finance Department: ☐	Previously Presented:
	n/a

Attachments:

Resolution 15.2027 Declaring a Local State of Emergency

Memo Regarding Governor Kotek's Letter to DEQ dated 10.9.26

Memo Requesting a Declaration of Emergency due to Governor Kotek's Letter to DEQ dated 10.9.26

10.09.26_Governor's Letter to DEQ Data Center Permitting

Summary Statement:

On October 9, 2026, Governor Tina Kotek issued a directive requesting that the Oregon

Department of Environmental Quality (DEQ) suspend the processing and issuance of certain air and water discharge permits associated with new or expanded data center facilities until July 1, 2027. This directive also includes certain municipal wastewater treatment facility permits intended to accommodate data center development. The City has significant concerns regarding the legality of this action, particularly whether such a categorical permitting suspension exceeds DEQ's statutory authority, violates Oregon's Administrative Procedures Act, or infringes upon municipal Home Rule authority. While the City fully supports responsible environmental protection and compliance with all applicable environmental laws, permitting decisions should be based upon established environmental standards and the individual merits of each application rather than an applicant's association with a particular industry.

The potential economic consequences to Umatilla are extraordinary. Preliminary estimates indicate that the Governor's directive threatens to delay more than $5 billion in anticipated private industrial investment, jeopardize at least 1,000 construction jobs and hundreds of permanent employment opportunities, and create construction and operational delays extending two years or longer. The City faces more than $6 million in potential direct financial losses, in addition to millions in delayed Enterprise Zone and other contractual revenues, approximately $12 million in threatened water infrastructure investments, and potential disruptions to anticipated contributions supporting the City's voter-approved Police Station bond and residential property tax relief. Umatilla County, the Umatilla School District, the Umatilla Rural Fire Protection District, and the Umatilla Hospital District also face substantial financial consequences. These impacts extend far beyond individual businesses and threaten the financial stability of local governments, essential public services, infrastructure investments, and the broader regional economy.

In response, staff recommends that the City Council adopt Resolution No. 15-2027, declaring a Local State of Emergency pursuant to ORS 401.025 and ORS 401.309, based upon the Council's finding that the Governor's directive constitutes a human-created circumstance threatening widespread financial loss. Oregon law expressly recognizes threatened financial loss as a potential basis for an emergency declaration, and the City should not be required to wait until investments are abandoned, jobs are lost, or essential services are compromised before taking action. The proposed Resolution establishes the Council's formal findings, directs a comprehensive economic impact assessment, requests immediate reconsideration of the Governor's directive, and authorizes the City Manager to coordinate with affected governments and legal counsel to pursue appropriate administrative and judicial remedies. Adoption of this Resolution will formally recognize the severity of the threat, protect the City's financial interests, and reaffirm the Council's commitment to responsible economic development, environmental stewardship, and the fair and lawful administration of Oregon's regulatory requirements.

Suggested Action:

I move to adopt Resolution No. 15-2027, declaring a Local State of Emergency.

RESOLUTION NO. 15 - 2027

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UMATILLA, OREGON, DECLARING A LOCAL STATE OF EMERGENCY PURSUANT TO ORS 401.025 AND ORS 401.309 DUE TO THE THREAT OF WIDESPREAD FINANCIAL LOSS RESULTING FROM GOVERNOR TINA KOTEK'S OCTOBER 9, 2026, DIRECTIVE TO THE OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY; ESTABLISHING FINDINGS OF FACT; AND AUTHORIZING APPROPRIATE EMERGENCY RESPONSE MEASURES.

WHEREAS, ORS 401.025(1) defines an emergency as "a human created or natural event or circumstance that causes or threatens widespread loss of life, injury to person or property, human suffering or financial loss"; and

WHEREAS, the Oregon Legislature expressly recognizes that an emergency may arise from human-created circumstances, may involve widespread financial loss, and may exist when such financial loss is threatened rather than already realized; and

WHEREAS, ORS 401.309(1) authorizes the governing body of an Oregon city to declare, by ordinance or resolution, that a state of emergency exists within its jurisdiction, provided that the duration of the declaration is limited to the period during which the emergency conditions exist or are likely to continue; and

WHEREAS, ORS 401.032 recognizes the importance of local governmental responsibility in preparing for, responding to, and minimizing the consequences of emergencies, including financial loss; and

WHEREAS, Article XI, Section 2 of the Oregon Constitution recognizes municipal Home Rule authority, subject to applicable state law, and the City Council has a responsibility to protect the economic stability, financial integrity, essential public services, and general welfare of the residents of Umatilla;

WHEREAS, on October 9, 2026, Governor Tina Kotek issued a letter to Oregon Department of Environmental Quality (DEQ) Director Leah Feldon requesting the “pause” (*suspension*) of processing and issuance of certain environmental permits associated with new or expanded data center facilities throughout Oregon until July 1, 2027; and

WHEREAS, the requested suspension includes National Pollutant Discharge Elimination System (NPDES) permits, Water Pollution Control Facilities (WPCF) permits, Air Contaminant Discharge Permits (ACDP), Title V air quality permits, and certain municipal wastewater treatment facility permit renewals or modifications intended to accommodate data center-related wastewater discharges; and

WHEREAS, the Governor has identified the consideration of future regulatory and legislative changes as a reason for the requested suspension, rather than identifying specific environmental deficiencies applicable to every affected permit application; and

WHEREAS, the Governor's Office publicly acknowledged on August 7, 2026, and again on September 8, 2026, that the State lacked authority to impose a statewide moratorium on data center development, raising substantial concerns regarding the legal authority for implementing a categorical permitting suspension through administrative action; and

WHEREAS, the City Council recognizes and supports the State's responsibility to protect environmental quality and require compliance with applicable environmental standards, but finds that the proposed categorical suspension raises serious questions concerning statutory authority, the Oregon Administrative Procedures Act, ORS Chapter 183, and the consistent application of environmental permitting requirements; and

WHEREAS, the City Council finds that a suspension of otherwise lawful permitting processes based upon an applicant's association with a particular industry, rather than individualized environmental considerations, threatens the predictability and reliability of the regulatory framework upon which municipalities, employers, and taxpayers depend; and

WHEREAS, the City of Umatilla has experienced substantial industrial investment associated with data center development, including four operating facilities, one additional facility under construction, and two additional facilities anticipated under existing enterprise zone agreements; and

WHEREAS, the City has entered into long-term economic development agreements and undertaken substantial infrastructure and financial planning in reasonable reliance upon the continuation of lawful industrial development and established environmental permitting procedures; and

WHEREAS, the Governor's requested permitting suspension threatens to delay an estimated more than $5 billion in anticipated private industrial investment within the Umatilla area, perhaps permanently; and

WHEREAS, the City Council finds that the proposed suspension of nearly nine months could result in construction and operational delays extending up to two years or longer because of financing requirements, construction schedules, equipment procurement and procurement lead-time, contractual commitments, and other development dependencies; and

WHEREAS, these delays threaten at least 1,000 construction employment opportunities, together with hundreds of permanent and related employment opportunities, resulting in potentially substantial losses of wages, household income, contractor revenues, and local economic activity; and

WHEREAS, the City Council finds that the threatened financial consequences extend well beyond individual development companies and may adversely affect local businesses, suppliers, contractors, service providers, residents, and other public agencies throughout the community; and

WHEREAS, preliminary and initial financial impact estimations identify substantial potential consequences for the City of Umatilla, including:

- Delays in approximately $1.075 million in anticipated one-time payments associated with Sabey Data Centers;
- Delays in approximately $1.507 million in anticipated annual payments associated with Sabey Data Centers;
- Delays in approximately $2.07 million in anticipated annual payments associated with AWS development scheduled to begin in 2028, with additional payments anticipated in subsequent years;
- Potential cancellation of approximately $12 million in developer-funded water infrastructure improvements;
- Delays in approximately $216,000 annually in anticipated contributions toward the City's voter-approved Police Station bond obligations during 2027 and 2028; and
- An estimated $1 million in additional franchise fee revenues potentially lost during 2028 and 2029; and

WHEREAS, the City Manager's preliminary assessment identifies more than $6 million in potential direct financial losses to the City of Umatilla, in addition to substantial deferred revenues, threatened infrastructure investments, and other financial consequences that may extend for multiple years; and

WHEREAS, the City Council further finds that the financial consequences threaten the City's ability to maintain planned investments in public safety, infrastructure, economic development, quality of life improvements, and other essential governmental services; and

WHEREAS, the City's new Police Station, authorized by voters through Measure 30-168 in November 2025, includes a financial strategy utilizing anticipated industrial-related revenues to offset residential property tax burdens, and delays in these revenues threaten the City's ability to implement that strategy as planned, likely resulting in significant increases to local taxpayers or perhaps even noncompliance with the terms of the bond; and

WHEREAS, the threatened economic consequences extend to other local taxing districts, including Umatilla County, the Umatilla School District, the Umatilla Rural Fire Protection District, the Umatilla Hospital District, and other local special taxing districts which collectively face millions of dollars in potentially delayed payments and contributions; and

WHEREAS, the City Council finds that these threatened losses are substantial, foreseeable, and widespread in their potential effect upon the local economy, public institutions, employment, municipal financial stability, and the general welfare of the community; and

WHEREAS, the City Council recognizes that individual financial projections remain subject to project-specific permitting requirements, development schedules, contractual conditions, and subsequent verification, but finds that the magnitude and reasonable foreseeability of the threatened losses warrant immediate action without waiting for those losses to become irreversible;

WHEREAS, the City Council finds that the Governor's October 9, 2026, directive constitutes a human-created circumstance that threatens widespread financial loss within the City of Umatilla and that the circumstances satisfy the definition of an emergency under ORS 401.025(1); and

WHEREAS, the Council further finds that the threatened financial consequences are extraordinary in magnitude and scope, are not reasonably addressed through ordinary municipal financial planning alone, and require coordinated and timely governmental action to prevent, minimize, and respond to potential economic harm; and

WHEREAS, the City Council finds that waiting until substantial investments have been abandoned, employment opportunities have disappeared, municipal revenues have been lost, or essential public services have been compromised would unnecessarily increase the risk of preventable harm to the community; and

WHEREAS, the City Council therefore determines that declaring a Local State of Emergency is necessary and appropriate to recognize the threatened widespread financial loss, coordinate the City's response, protect municipal financial interests, and pursue appropriate administrative, legislative, and legal remedies.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF UMATILLA, OREGON, AS FOLLOWS:

SECTION 1. DECLARATION OF LOCAL STATE OF EMERGENCY
Pursuant to ORS 401.025 and ORS 401.309, the City Council hereby DECLARES THAT A LOCAL STATE OF EMERGENCY EXISTS WITHIN THE CORPORATE LIMITS OF THE CITY OF UMATILLA, OREGON, arising from the human-created circumstance associated with Governor Tina Kotek's October 9, 2026, directive to DEQ and the resulting threat of widespread financial loss to the City, its residents, businesses, employees, public institutions, and local economy.

SECTION 2. ADOPTION OF FINDINGS
The City Council hereby adopts the foregoing recitals as its formal Findings of Fact supporting this emergency declaration.

The Council further incorporates by reference the City Manager's memoranda dated October 15, 2026, which has been reviewed by City attorneys, as supporting documentation for the declaration, recognizing that the financial projections contained therein are preliminary estimates subject to further evaluation and subject to update and refinement.

SECTION 3. AUTHORIZATION OF EMERGENCY RESPONSE
The City Manager, or his designee, is hereby authorized and directed, consistent with applicable law, adopted City policies, and available appropriations, to coordinate the City's response to the declared emergency, including:

A. Economic Impact Assessment. Prepare and maintain a comprehensive assessment of threatened and actual financial losses, including private investment, employment,

municipal revenues, infrastructure commitments, public safety financing, and impacts upon other local taxing districts.

B. State Government Coordination. Formally request, either directly or through our attorney(s) or partnered attorney(s), that Governor Kotek withdraw or modify the October 9, 2026 directive and that DEQ continue processing and evaluating environmental permit applications according to applicable statutory and administrative requirements.

C. Legal and Administrative Remedies. In consultation with the City Attorney, evaluate and pursue appropriate administrative remedies and other lawful measures to protect the City's interests, including seeking judicial relief.

D. Intergovernmental Coordination. Coordinate with Umatilla County, affected taxing districts, neighboring municipalities, regional economic development organizations, and other public and private partners to assess the emergency's consequences and develop appropriate responses.

E. Municipal Financial Protection. Identify and recommend appropriate budgetary, contractual, operational, and capital planning measures to minimize the potential financial consequences to the City and its residents.

SECTION 4. FORMAL REQUEST TO THE GOVERNOR AND DEQ

The City Council formally requests that Governor Kotek immediately reconsider and withdraw or modify the October 9, 2026, directive.

The Council further requests that DEQ publicly identify the specific statutory and administrative authority supporting any implementation of the requested permitting suspension, explain its compliance with Oregon's Administrative Procedures Act, and clarify the treatment of pending permit applications and municipal wastewater permits.

The Council expressly affirms that all industrial facilities must comply with applicable environmental requirements and that this resolution does not seek exemption from any valid state or federal environmental law.

SECTION 5. DURATION AND REVIEW OF EMERGENCY

This Local State of Emergency shall take effect immediately upon adoption and shall remain in effect only for the period during which the conditions giving rise to the emergency exist or are likely to continue, as required by ORS 401.309(1).

The City Manager, or his designee, shall provide the City Council with a status report at least by January 31, 2027, and every six weeks thereafter addressing the continuing emergency conditions, the financial consequences, and the necessity of maintaining the declaration.

The City Council shall review the declaration at least every 90 days and may modify or terminate it by subsequent resolution. The declaration shall terminate when the conditions supporting the emergency no longer exist or are no longer reasonably expected to continue.

SECTION 6. LIMITATIONS OF AUTHORITY

Nothing in this resolution shall be construed to suspend or supersede applicable state or federal law, authorize expenditures without lawful appropriation, exempt any person or entity from

environmental requirements, or confer powers beyond those otherwise available to the City under applicable law.

SECTION 7. TRANSMITTAL
The City Manager, or his designee, is directed to transmit copies of this resolution to Governor Tina Kotek, DEQ Director Leah Feldon, the Oregon Department of Emergency Management, the Umatilla County Board of Commissioners, the League of Oregon Cities, and other affected governmental agencies as determined by the City Manager.

SECTION 8. EFFECTIVE DATE
This Resolution shall become effective immediately upon its adoption by the Umatilla City Council.

PASSED by the Council and **SIGNED** by the Mayor this 20th day of October 2026

_____
Caden Sipe, Mayor

ATTEST:

_____
Nanci Sandoval, City Recorder

CITY OF UMATILLA

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MEMORANDUM

October 16, 2026

To: Mayor and Council
Cc: Melissa Ince, Zach, Ratkai, Joanna Antley, Peter Mohr
Re: Governor Kotek's Statewide Data Center Permitting Suspension — Serious Legal Concerns, Economic Consequences, and Threats to Local Government Investments

OVERVIEW

On October 9, 2026, Governor Tina Kotek requested that Oregon Department of Environmental Quality (DEQ) suspend the processing and issuance of certain air and water discharge permits for new or expanded data center facilities until July 1, 2027. The suspend directive includes:

- National Pollutant Discharge Elimination System (NPDES) permits;
- Water Pollution Control Facility (WPCF) permits;
- Air Contaminant Discharge Permits (ACDP);
- Title V air quality permits; and
- Municipal wastewater treatment facility permit renewals or modifications intended to accommodate wastewater discharges from data center industrial sources.

The City of Umatilla has serious concerns about the Governor's legal basis for her "request." Such concern is only heightened by the fact that the Governor's own administration has repeatedly and publicly acknowledged that the State lacks authority to impose a statewide moratorium on data center development. Given the current circumstances, however, the City is deeply concerned that Governor Kotek may still seek to impose a moratorium on new construction of such facilities.

The Governor's directive raises the following legal concerns:

1. Whether DEQ can suspend the processing of permits solely on an applicant's association with data centers;
2. Whether the Governor's actions without formal rulemaking violates Oregon's Administrative Procedures Act;
3. Whether the Governor is unlawfully refusing to act or causing unreasonable administrative delay;
4. Whether the Governor violates the Oregon Constitution by implementing executive policy rather than deferring to the Oregon Legislature and local government home rule authority; and
5. Whether the Governor's actions conflict with applicable federal law.

The City recognizes and fully supports Oregon's responsibility to protect its air, water, land, and communities. We also recognize that data center facilities, like every other industrial facility, must comply with applicable environmental standards. However, environmental regulation must be based upon environmental science, adopted standards, statutory requirements, and the specific characteristics of each individual application.

Impact on the City of Umatilla

Within the City Limits, the City currently has four operating data centers, one data center currently under construction, and two additional data centers anticipated to be completed under existing enterprise zone agreements. These projects represent a substantial long-term commitment to the greater Umatilla area. In addition to the direct investment associated with the facilities themselves, data center development supports a broader network of construction contractors, engineers, equipment suppliers, utility providers, professional services, and local businesses. Given the extent of economic benefits the City directly derives from such activities, hte adverse economic consequences of interrupting this activity necessarily extend well beyond the owners of the individual facilities themselves.

As discussed below, Governor Kotek's actions not only unjustifiably threaten significant private investment (both established and proposed), but also create unanticipated uncertainty within areas of municipal infrastructure planning, employment opportunities, public services, and local government revenues. At a minimum, the Governor's actions are currently estimated to threaten at least 1,000 "temporary" construction jobs, hundreds of permanent data center jobs, and "related jobs" that are indirectly associated with the operation of such facilities. This "pause" would delay *more than $5 billion* in industrial investment and cause at least a two-year delay in construction and operations. In summary, the delays will cost the City of Umatilla more than $6M plus *delayed* payments as follows: $1.075M in one-time payments; $3.514M in 2028 annual payments; $2.07M in 2029 annual payments; $12M in water infrastructure payments/reimbursements; $216,000/year in Police Station Bond Payments; and an estimated $1M in annual Franchise Fees. These financial impacts are further exacerbated in delayed or lost contracted payments to our schools, fire protection district, hospital district, and others.

As you can see, the City's concerns are not theoretical. Responsible data center development benefits local communities. As a result of the current and planned data center development, the City obtained substantial infrastructure investment, expanded employment opportunities, and strengthened the City financial position.

The City achieved these benefits in full collaboration with DEQ and with nearly perfect compliance with our permits. Our responsibility is to defend the lawful, consistent, and predictable administration of regulations, while protecting the residents and taxpayers who depend upon the City's financial stability.

The City of Umatilla should not be required to sacrifice its economic future, municipal investments, partnerships, or public services because the State has elected to suspend regulatory processes that existing law requires it to administer.

LEGAL CONCERNS

Governor Kotek's Admission: State Lacks Authority

On August 7, 2026, in an official press release, the Governor's Office stated, "the State lacks authority to enact a statewide moratorium." The Governor expressed support and strong encouragement for local governments to consider implementing their own moratoriums locally. The Governor recognized that the authority to regulate development is distributed among state agencies, local governments, and the Legislature, and that the Governor does not possess unlimited power to prohibit otherwise lawful development through executive action.

On September 8, 2026, the Governor's office reiterated that she and the State currently lacked such authority without going through the Legislative process. She directed state agencies to pause certain requests involving *state-owned* property that would support new data center development. Note that the State's discretion in *state-owned* property is distinct from its role as a regulatory authority. When an agency administers environmental permits, its authority is established and constrained by statutes, administrative rules, and applicable federal law.

Governor Kotek has repeatedly and unequivocally acknowledged on the public record that her administration lacks the authority to impose a statewide moratorium on data center development. They were official declarations of the Governor's understanding of the legal limitations upon her authority.
Yet, just one month later, the Governor requested that DEQ suspend the processing and issuance of environmental permits for an entire industry throughout Oregon.

The City of Umatilla finds this apparent contradiction deeply concerning. The City believes the Governor and DEQ owe Oregon's communities a direct explanation of how this statewide permitting suspension can be reconciled with the Governor's previous acknowledgments of limited authority.

Infringement in City's Home Rule Authority

The Oregon Constitution grants cities self-governing powers. *See Oregon Constitution, Article XI, Section 2 and Article IV, Section 1(5)*. This authority reflects the fundamental principle that local communities possess meaningful and powerful authority to govern local affairs. Oregon courts have repeatedly recognized that municipalities may exercise regulatory authority under their home rule authority unless the Oregon Legislature has preempted local regulations.

In this case, the City exercised its lawful local authority through its comprehensive planning, zoning, infrastructure investments, development agreements, and economic development policies. Umatilla

has made its own policy choices, consistent with applicable law, to accommodate responsible industrial development.

The City strongly objects to any infringement on the City's home rule authority without lawful Legislative Authority.

Conflict with Federal Law

The State of Oregon, through the DEQ, administers and acts on behalf of the federal government. If a state fails to administer the required permits adequately, the applicable federal agency such as the U.S. Environmental Protection Agency (EPA) can act on behalf of the state. Although it is unlikely that the federal government would step into to take action, it appears that the Governor is acting outside the parameters of the applicable federal laws and without the benefit of any data or studies. Further, such action may be preempted by federal law.

Violation of Oregon's Procedures Act

The Administrative Procedures Act establishes the legal framework governing how Oregon agencies adopt rules, administer regulatory programs, and make decisions affecting individuals, businesses, and local governments. These requirements exist for a reason. They promote transparency, public participation, accountability, consistency, and adherence to the authority granted by the Legislature. They also help ensure that administrative agencies do not establish new legal obligations or restrictions through informal directives that bypass required procedures.

If DEQ adopts a binding policy that the agency will not process or issue covered permits until July 1, 2027, that policy may require compliance with **Oregon's rulemaking requirements**. The Governor's characterization of the directive as an exercise of existing administrative discretion does not, by itself, exempt it from those requirements because Oregon law provides mechanisms for adopting temporary rules under qualifying circumstances. **A statewide regulatory restriction does not become lawful merely because it is announced in a letter rather than published as an administrative rule.**

Administrative Discretion is Not Unlimited Authority

The Governor's letter specifically asks DEQ to exercise its "existing administrative authority and discretion." These words implicitly acknowledge that DEQ must operate *within authority* it already possesses. Administrative discretion permits an agency to make judgments within the boundaries established by law. An agency cannot transform limited discretion over individual permit applications into unlimited discretion to suspend an entire permitting program for a selected industry. The Governor cannot expand DEQ's authority simply by directing it to exercise discretion.

Environmental Permitting Must Be Based on Objective Requirements

The City also asserts that environmental regulation must be grounded in objective, legally established environmental requirements. The State should evaluate what a facility proposes to emit, discharge, consume, construct, or operate, and whether those activities comply with applicable standards. It

should not substitute the label attached to a particular industry for the environmental analysis required by law.

A facility's industry classification is not itself evidence of environmental noncompliance. Depending on a particular data center's design and operations, the facility may be subject to requirements concerning backup generators, air emissions, cooling systems, water use, wastewater discharge, construction activities, and other environmental considerations. A facility that cannot meet applicable standards should be denied authorization where the law requires denial, but a data center that can meet the applicable standards should be allowed to operate.

State's Failure to Take Required Action

Oregon law recognizes that agencies may not simply refuse to carry out duties imposed upon them. ORS 183.490 authorizes a court, upon an appropriate petition, to compel an agency to act where the agency has unlawfully refused to act or has unreasonably delayed taking action or making a decision.

The Governor's directive refusal to process otherwise complete applications until a predetermined future date does not identify a specific environmental deficiency. Instead, it seeks to suspend processing while potential future policy reforms are considered. Again, this may be a violation of the federal law that the State is administering.

The State cannot disregard federally-imposed obligations simply because its elected leadership wishes to reconsider its policies.

Particular Concerns Regarding Municipal Wastewater Permits

The October 9 directive extends beyond privately-owned data center facilities. It specifically includes municipal wastewater treatment facility permit renewals or modifications intended to accommodate wastewater discharge from data center industrial sources.

Municipal wastewater facilities are public infrastructure. They are financed, operated, maintained, and regulated to serve communities, protect public health, and accommodate lawful development. A municipality's wastewater treatment facility may serve residential customers, commercial businesses, industrial facilities, public institutions, and other users simultaneously. A municipal government should not face regulatory disadvantages merely because the Governor has chosen to target one of its customers.

For Umatilla, the City has invested heavily in water and wastewater infrastructure to support existing residents, future housing, commercial activity, and industrial development. These investments are part of a comprehensive strategy to responsibly accommodate growth while protecting public health and the environment.

For Umatilla, it simply is not possible to make a wastewater or water improvement that does not impact all users of the system. *The State should not place municipal governments in regulatory limbo simply*

because they have successfully attracted an industrial customer that complies with applicable law. DEQ must clarify whether municipal permit renewals will continue to be processed, whether modifications unrelated to data center discharges remain unaffected, and how existing permit protections and operating obligations will be maintained.

Oregon Legislature

The City recognizes the Legislature's authority to consider changes to Oregon's environmental laws and economic development policies. The legislative process matters. It provides opportunities for public testimony, fiscal analysis, stakeholder participation, debate, amendment, and consideration of unintended consequences. Those safeguards are particularly important when proposed policies may affect substantial investments, employment, municipal infrastructure, and public revenues.

Whether the Legislature may change the law in 2027 is not a lawful justification for suspending the administration of existing law in 2026.

SIGNIFICANT ECONOMIC CONSEQUENCES FOR UMATILLA AND THE REGION

Creation of Unpredictable Conditions Harming Communities

The Governor's directive threatens to disrupt an industry that has become an important contributor to Umatilla's economy and fiscal stability.

A regulatory system must be predictable. Businesses and local governments make substantial financial commitments based upon adopted laws, published standards, and established permitting procedures. They invest in engineering, infrastructure, land acquisition, environmental studies, utility systems, and construction planning in reliance upon those requirements. When a state agency changes its approach to an entire industry without identifying the specific environmental standards supporting that change, it undermines confidence in the regulatory system. If one administration may suspend permits for data centers while considering future legislation, what prevents another administration from attempting the same approach toward food processors, agricultural facilities, manufacturing operations, warehouses, or other industries? Such unpredictability creates a slippery slope.

Existing and Anticipated Investment, and Financial Impacts

The City currently has four operating data centers, one additional facility under construction, and two additional facilities anticipated under existing enterprise zone agreements. In addition to the direct investment associated with the facilities themselves, data center development supports a broader network of construction contractors, engineers, equipment suppliers, utility providers, professional services, and local businesses. The economic consequences of interrupting this activity extend well beyond the owners of individual facilities.

Over the past several years, Umatilla has experienced substantial industrial investment associated with data center development. These investments have supported permanent employment, construction

activity, infrastructure expansion, and new sources of revenue for local governments and other taxing districts. The City considers impacts for industrial development and has leveraged responsible industrial investment into lasting public benefits.

For Umatilla, this directive threatens at least 1,000 "temporary" construction jobs and hundreds of permanent data center and related market jobs. As of today, this "pause" would result in the delay of *more than $5 billion* in industrial investment. A nearly 9-month delay now is likely to result in at least a two-year delay in construction and operations.

For Umatilla, and our other local taxing districts, these delays are overwhelmingly significant:

- Umatilla Hospital District: $1 Million plus $45,000/year in annual contributions
    - $1 Million in earmarked payments toward the Umatilla Hospital District
    - Estimated new annual payments of $15,000 from Sabey Data Centers forecasted to begin in 2027 will be delayed two years
    - Estimated new annual payments of $15,000 from AWS forecasted to begin in 2028 will be delayed two years
    - Estimated new annual payments of $15,000 from AWS forecasted to begin in 2029 will be delayed two years
- Umatilla County: $2.075 Million in one-time payments, plus $3.507 Million in annual payments in 2028 and $2.07 Million in annual payments in 2029 delayed two years
    - $1 Million in earmarked payments towards the County's Umatilla River Trail Project delayed two years
    - $1.075 Million in one-time payments from Sabey Data Centers delayed two years
    - $1.507 Million in annual payments from Sabey Data Centers delayed two years
    - $2.07 Million in annual payments from AWS currently forecasted to begin in 2028 would be delayed two years
    - $2.07 Million in annual payments from AWS currently forecasted to begin in 2029 would be delayed two years
- Umatilla School District: Annual payments of $383,000 in 2028 and $174,000 in 2029 delayed, plus a delay in an estimated $600,000 in Construction Excise Tax
    - Annual contributions of $209,000 from Sabey Data Centers currently forecasted to begin in 2028 will be delayed two years
    - Annual new contributions of $174,000 from AWS currently forecasted to begin in 2028 will be delayed two years
    - Annual new contributions of $174,000 from AWS currently forecasted to begin in 2029 will be delayed two years
    - An estimated $600,000 in Construction Excise Taxes delayed
- Umatilla Rural Fire Protection District: Annual payments of $166,600 in 2028 and $79,300 in 2029 delayed

    - Annual contributions of $87,300 from Sabey Data Centers currently forecasted to begin in 2028 will be delayed two years
    - Annual contributions of $79,300 from AWS currently forecasted to begin in 2028 will be delayed two years
    - Annual contributions of $79,300 from AWS currently forecasted to begin in 2029 will be delayed two years
- City of Umatilla: $1.075 Million in one-time payments, $3.514 Million in annual payments in 2028, $2.07 Million in annual payments in 2029, $12 Million in water infrastructure, $216,000/year in Police Station Bond Payments, $1 Million in Franchise Fees. In total, more than $6 million lost to the City of Umatilla while others delayed multiple years.
    - $1.075 Million in one-time payments from Sabey Data Centers delayed two years
    - $1.507 Million in annual payments from Sabey Data Centers delayed two years
    - $2.07 Million in annual payments from AWS currently forecasted to begin in 2028 would be delayed two years
    - $2.07 Million in annual payments from AWS currently forecasted to begin in 2029 would be delayed two years
    - $12 Million in water infrastructure paid by data centers may be cancelled
    - $216,000/year of Police Station Bond payments not received in 2027 and 2028
    - An estimated $500,000 in Franchise revenue lost in both 2028 and 2029

Enterprise Zone and Strategic Investment Program Revenues

The City receives substantial revenues associated with industrial development through enterprise zone and Strategic Investment Program arrangements (see estimated impacts above). These resources help support sustainable municipal operations, capital investments, and long-term financial planning. A permitting suspension that delays the construction, completion, or commissioning of new facilities could affect the timing of future revenues, depending upon the terms of the applicable agreements and the relevant statutory requirements. The City must evaluate the potential consequences for anticipated payments, including the timing of initial payments and the possibility of future reductions or deferrals.

New Police Station and Residential Tax Relief

In November 2025, Umatilla voters approved Measure 30-168, authorizing a $19.8 million bond for the new facility. The City subsequently established a Public Safety Center Credit intended to offset residential property tax impacts, supported by designated industrial-related revenues. This approach reflects a deliberate policy choice: leverage economic development to improve essential public services while reducing the financial burden on residents. Both Sabey Data Centers and AWS have “Future Bonding” clauses in their agreements that require them to pay for voter-approved initiatives in public safety. This pause will delay when these facilities begin operations, thus delaying when they would pay into and support this bond. If future industrial revenues are delayed or diminished, the City may face additional pressure in maintaining planned financial commitments and tax-relief strategies.

Infrastructure Investments and Financial Commitments

Umatilla has undertaken major infrastructure investments to accommodate community growth and industrial development. These include substantial water and wastewater improvements, transportation infrastructure, and other capital facilities. A sudden disruption in the anticipated development pipeline could affect future infrastructure financing assumptions and the timing of planned improvements.

REQUESTED ACTIONS AND FORMAL CLARIFICATIONS

I recommend that the City Council support the following actions:

1. Request for Declaration of Emergency *(see complementary Emergency Memo)*. I am formally requesting that the Umatilla City Council consider and adopt a Resolution declaring a Local State of Emergency within the City of Umatilla, pursuant to ORS 401.025 and ORS 401.309, in response to the extraordinary and potentially devastating economic consequences arising from Governor Tina Kotek's October 9, 2026, directive to the Oregon Department of Environmental Quality (DEQ).

2. Request immediate clarification from DEQ and the Governor's Office. The City should request a written explanation identifying the specific legal authority supporting the proposed permitting suspension. That explanation should address the Administrative Procedures Act, the distinction between rulemaking and administrative discretion, the treatment of pending applications, and the State's obligations under applicable federal permitting programs.

3. Request confirmation that municipal wastewater permits will continue to receive lawful review. The City should request clarification regarding municipal wastewater treatment facility permits, including renewals, modifications, and applications involving facilities serving multiple categories of customers.

Municipal governments must be able to operate and maintain essential infrastructure without unnecessary regulatory uncertainty.

4. Request disclosure of DEQ's implementation procedures. DEQ should publicly identify whether it intends to implement the Governor's directive, the effective date of any suspension, the permits affected, and any procedures for individualized consideration or review. A letter requesting agency action should not be treated as a substitute for the legal and procedural steps necessary to implement that action.

5. Complete a comprehensive fiscal impact assessment. City staff should prepare a detailed assessment of the directive's potential consequences for:

- Planned private investment;
- Permanent and construction employment;
- Enterprise zone and Strategic Investment Program revenues;
- Public Safety Center financing and tax-relief strategies;
- Municipal infrastructure commitments;
- The City's long-term financial forecast; and

- Other affected taxing districts.

6. Coordinate with other affected local governments. The City should communicate with other Oregon municipalities, counties, ports, and taxing districts connected with Umatilla and throughout the state that may experience similar impacts. This issue extends beyond Umatilla and deserves coordinated consideration.

7. Evaluate available administrative and legal remedies. The City should work with legal counsel to evaluate whether DEQ's implementation of the directive would violate applicable statutory requirements, administrative rulemaking obligations, or permitting duties. Depending upon the State's actions, affected parties may have administrative or judicial remedies available. The City should preserve its ability to consider appropriate action if the State implements an unlawful suspension that materially affects municipal interests. Direct the City Manager, or his designee, to partner with Umatilla County and/or other appropriate counties or cities to hire legal counsel to appropriately file a response with the appropriate court(s).

CONCLUSION

The City of Umatilla believes strongly in responsible development, environmental stewardship, and the rule of law. Those principles are not mutually exclusive. Our community should not be forced to choose between protecting its environment and supporting lawful economic development. **We can and always have done both.** Oregon has established environmental laws, permitting requirements, and regulatory agencies for precisely that purpose. Those laws should be administered fairly, consistently, and according to their adopted requirements. If a facility does not satisfy applicable environmental standards, the State should require compliance or deny the necessary authorization. If a facility satisfies those standards, the State should process its application according to law. And if existing laws need to change, those changes should occur through the legislative or administrative procedures established by Oregon law. What the State should not do is suspend regulatory proceedings for an entire industry simply because its elected leadership wishes to reconsider that industry's future.

Twice, Governor Kotek publicly acknowledged that Oregon lacks authority to impose a statewide moratorium on data center development. Her October 9 directive now requests a statewide suspension of environmental permitting activities affecting that same industry. The distinction between those actions deserves much more than a change in terminology. It demands a clear, specific, and defensible legal explanation.

The City of Umatilla is deeply concerned that the directive may exceed DEQ's statutory authority, violate the rulemaking requirements of Oregon's Administrative Procedures Act, and subject otherwise lawful applicants to regulatory delays unrelated to their actual environmental compliance. We are equally concerned about the financial consequences for our community. Umatilla has worked diligently to turn responsible industrial development into new infrastructure, improved public services, employment opportunities, and financial benefits for residents. These accomplishments are the result of years of

planning, negotiation, investment, and collaboration. They should not be placed at risk through an administrative directive whose legal foundation has not been clearly established.

Oregon cannot expect communities to plan responsibly, businesses to invest confidently, and local governments to make long-term financial commitments if the State can suspend established regulatory processes whenever political priorities change. The City of Umatilla respectfully but firmly calls upon Governor Kotek and DEQ to identify the legal authority supporting this action, explain how it complies with Oregon's Administrative Procedures Act, and ensure that all environmental permit applications are evaluated according to applicable law and their actual environmental characteristics.

Until those questions are satisfactorily answered, the City believes the proposed categorical permitting suspension should not be implemented. Our residents deserve a state government that protects the environment, respects local communities, honors established law, and recognizes the economic consequences of its decisions. **The rule of law must remain the foundation of Oregon's regulatory system. Neither political preference nor administrative convenience should replace it.**

Respectfully Submitted,

Dave Stockdale
City Manager, City of Umatilla

PUBLIC SOURCES AND LEGAL AUTHORITIES

1. Office of Governor Tina Kotek, August 7, 2026, *Governor Kotek Supports Moratoriums on Data Center Development.* https://apps.oregon.gov/oregon-newsroom/OR/GOV/Posts/Post/governor-kotek-supports-moratoriums-on-data-center-development
2. Office of Governor Tina Kotek, September 8, 2026, *Governor Kotek Pauses Work on Requests for State Land to Support New Data Centers.* https://apps.oregon.gov/oregon-newsroom/OR/GOV/Posts/Post/governor-kotek-pauses-work-on-requests-for-state-land-to-support-new-data-centers
3. Governor Tina Kotek, October 9, 2026, Letter to DEQ Director Leah Feldon regarding data center permitting. https://www.documentcloud.org/documents/28809529-100926-governors-letter-to-deq-data-center-permitting/
4. Oregon Administrative Procedures Act, ORS Chapter 183, particularly ORS 183.310, 183.335, 183.400, 183.484, and 183.490. https://www.oregonlegislature.gov/bills_laws/ors/ors183.html
5. *PNW Metal Recycling, Inc. v. Department of Environmental Quality*, 371 Or 673 (2023).

6. Oregon air quality statutes, ORS Chapter 468A. https://www.oregonlegislature.gov/bills_laws/ors/ors468a.html
7. Oregon water quality statutes, ORS Chapter 468B. https://www.oregonlegislature.gov/bills_laws/ors/ors468b.html
8. Federal NPDES permitting procedures, 40 CFR Part 124, including 40 CFR 124.6, and applicable state-program requirements under 40 CFR Part 123.

***Note*:** Legal conclusions remain subject to final review by City legal counsel.

CITY OF UMATILLA

700 6th Street or PO Box 130
Umatilla, OR 97882
City Hall (541) 922-3226
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MEMORANDUM

October 16, 2026

To: Mayor and Council
Cc: Melissa Ince, Zach, Ratkai, Joanna Antley, Peter Mohr
Re: Request for Declaration of Emergency due to Governor Kotek's Letter to DEQ dated October 9, 2026

Purpose and Requested Action

I am formally requesting that the Umatilla City Council consider adopting a resolution declaring a Local State of Emergency pursuant to ORS 401.025 and ORS 401.309, in response to the extraordinary economic and financial threats arising from Governor Tina Kotek's October 9, 2026, directive to the Oregon Department of Environmental Quality (DEQ).

This request is not made lightly. A declaration of emergency is a significant governmental action, reserved for circumstances presenting serious threats to a community. However, I believe the Governor's directive creates precisely the type of human-created circumstance involving threatened widespread financial loss that Oregon law expressly recognizes as a potential emergency. The directive calls for DEQ to suspend processing and issuance of certain environmental permits associated with new or expanded data center facilities until July 1, 2027. Importantly, the directive also affects certain municipal wastewater permitting applications intended to accommodate data center development.

For Umatilla, the consequences are not theoretical. The directive threatens significant private investment, employment opportunities, anticipated municipal revenues, and the City's ability to responsibly plan and finance essential public services and infrastructure.

I. Oregon Law Expressly Recognizes Threatened Financial Loss as an Emergency

ORS 401.025(1) defines an emergency as: "A human created or natural event or circumstance that causes or threatens widespread loss of life, injury to person or property, human suffering or financial loss." The Legislature deliberately included three important elements within this definition: emergencies may arise from human-created circumstances, may involve financial loss, and may exist when that loss is merely threatened, rather than already realized. The law does not restrict emergencies exclusively to natural disasters or physical destruction. It recognizes that extraordinary financial threats may also warrant governmental intervention.

ORS 401.309(1) further provides: "The governing body of a city or county in this state may declare, by ordinance or resolution, that a state of emergency exists within the city or county." Together, these

provisions provide a substantial statutory basis for the City Council to consider whether the Governor's directive constitutes an emergency threatening the financial stability of Umatilla. While the application of these statutes to a statewide executive permitting directive is unusual and is being thoroughly reviewed by the City's attorneys, the fact that the threat originates from state government does not, by itself, eliminate the potential for an emergency under Oregon law.

II. The Governor's Directive Creates an Extraordinary Economic Threat

On October 9, 2026, Governor Kotek directed DEQ to pause processing and issuance of certain environmental permits associated with data center development while the State considers potential regulatory and legislative changes. The City of Umatilla fully supports responsible environmental protection and compliance with applicable laws. However, there is a fundamental distinction between requiring development projects to satisfy established environmental standards and suspending an entire category of applications based on the industry involved. Environmental permits should be evaluated on their individual merits and compliance with applicable environmental requirements, rather than being delayed solely because an applicant is associated with data center development. Beyond the significant legal and administrative questions raised by this directive, its economic consequences are potentially devastating to communities such as Umatilla.

Over the past several years, the City has worked diligently to attract private investment, support economic development, and establish financial partnerships that benefit the entire community. Data center investments have contributed to employment, infrastructure improvements, and revenues supporting municipal services and other local taxing districts.

The Governor's directive threatens that progress in several significant ways:

1. Private Investment: Delayed or suspended permitting threatens substantial planned industrial investments, potentially resulting in postponed construction, canceled projects, or the relocation of investment to other states.
2. Employment and Regional Economic Activity: Construction delays threaten jobs, contractor revenues, and economic activity supporting local businesses, suppliers, and families throughout the region.
3. Municipal Revenue and Essential Services: Delayed investments may postpone or reduce anticipated Enterprise Zone, Strategic Investment Program, and other revenues relied upon for municipal financial planning, infrastructure, and essential public services.
4. Other Local Taxing Districts: Schools, fire protection services, and other public agencies may also experience significant financial consequences from delayed or abandoned development.
5. Long-Term Financial Stability: Uncertainty surrounding major investments threatens the City's ability to responsibly plan capital improvements, maintain services, and fulfill long-term financial commitments.

These consequences extend far beyond the interests of individual businesses. They threaten the broader economic and financial well-being of the Umatilla community.

III. The City's Responsibility to Protect Its Community

The City Council has a fundamental responsibility to protect the health, safety, welfare, and economic stability of Umatilla's residents. Article XI, Section 2 of the Oregon Constitution recognizes municipal Home Rule authority, while ORS Chapter 401 establishes a framework for local governments to respond to emergencies threatening their communities. Although Home Rule does not permit the City to disregard valid state law, it reinforces the importance of local governments addressing matters affecting their communities. It is particularly troubling that Umatilla must contemplate declaring an emergency not because of a natural disaster, but because of a deliberate policy directive issued by the State's highest executive office. Nevertheless, the origin of the threat does not diminish the seriousness of its potential consequences.

The City is not seeking preferential environmental treatment, nor is it asking that any business be exempted from applicable environmental requirements. Rather, the City is seeking fair, consistent, and lawful administration of existing regulations without unnecessarily jeopardizing the economic stability of communities that depend upon these investments.

IV. Requested Council Action

I respectfully request that the City Council consider adopting a resolution declaring a Local State of Emergency under ORS 401.309, based upon a finding that Governor Kotek's October 9, 2026, directive constitutes a human-created circumstance that causes or threatens widespread financial loss within the meaning of ORS 401.025(1).

I further recommend that the resolution:

1. **Declare a Local State of Emergency** based on the substantial and foreseeable threats to municipal revenues, private investment, employment, and the financial stability of the community.
2. **Direct an Economic Impact Assessment** to formally quantify anticipated losses in private investment, employment, municipal revenues, and broader regional economic activity.
3. **Request Immediate Reconsideration by Governor Kotek**, including withdrawal or modification of the October 9 directive to allow DEQ to resume individualized review of applications under existing environmental laws.
4. **Authorize Appropriate Legal and Administrative Responses** to protect the City's interests, in consultation with the City Attorney and subject to applicable law.
5. **Coordinate with Affected Public Agencies** and regional partners to evaluate financial consequences and pursue appropriate remedies.
6. **Require Ongoing Council Review** of the emergency declaration and the circumstances giving rise to it, with termination when the statutory emergency conditions no longer exist.

V. Conclusion

The City of Umatilla has spent years building a stronger economic foundation through responsible planning, infrastructure investment, strategic partnerships, and the attraction of substantial private investment. That progress has supported public safety, improved infrastructure, strengthened local

taxing districts, and created opportunities for residents and businesses throughout our community. The Governor's October 9 directive threatens to undermine that progress through a broad permitting pause that may prevent otherwise lawful development from proceeding, regardless of whether individual projects can satisfy established environmental requirements.

Oregon law expressly recognizes that human-created circumstances threatening widespread financial loss may constitute an emergency. I believe the City of Umatilla has compelling reasons to evaluate whether the Governor's directive meets that standard. Declaring a local state of emergency would not supersede state law or independently compel DEQ to issue permits. It would, however, formally recognize the severity of the threat, establish the City's findings, organize an appropriate response, and communicate unequivocally that the financial well-being of our community deserves immediate attention.

The City Council should not be required to wait until jobs have disappeared, investments have been abandoned, municipal revenues have been lost, or essential public services have been compromised before responding to a foreseeable economic crisis.

For these reasons, I respectfully request that the City Council consider and approve a resolution declaring a Local State of Emergency, of which the circumstances that the statutory requirements have been confirmed and satisfied by the City Attorney.

Respectfully Submitted,

Dave Stockdale
City Manager, City of Umatilla

TINA KOTEK
GOVERNOR

October 9, 2026

Leah Feldon, Director
Oregon Department of Environmental Quality
700 NE Multnomah Street, Suite 600
Portland, OR 97232

Dear Director Feldon,

Thank you for your update on progress being made at DEQ to improve air quality permitting processes to align with the priorities of HB 4084 (2026). I know you are working hard to identify ways to support my vision for driving progress on Oregon's Prosperity Roadmap—bringing together business, labor, education, local governments, and communities around a shared strategy to grow our economy in ways that create opportunity across every region of our state. Your agency's continued work to identify ways to streamline and align permitting processes will be important to that priority effort.

How we facilitate responsible economic growth is also critical to statewide prosperity. This is why I established the Data Center Advisory Committee, and why I have been taking actions to both support local moratoriums and restrict development of new Data Centers until we can assure Oregonians that our laws will adequately protect our communities and the environment of our state.

Consistent with this approach, I am asking you to exercise your existing administrative authority and discretion to pause processing and issuance of air or water discharge permit applications until July 1, 2027 that involve new or expanded data center facilities within Oregon. Specifically, this should include National Pollution Discharge Elimination System (NPDES), Water Pollution Control Facility (WPCF), Air Contaminant Discharge (ACDP), or Title V Air Quality permits relevant to construction and/or operation of new Data Center facilities. This pause should also include processing applications from municipalities seeking to renew or modify wastewater treatment plant facility permits in order to accommodate wastewater discharge from data center industrial facility sources.

This time limited pause will provide an opportunity for me to evaluate and digest recommendations forthcoming from the Advisory Committee, and to provide space for policy and/or regulatory reforms that may be considered in the upcoming 2027 session of the Legislature with my support.

Thank you for ensuring that our decisions and work reflect the needs and value of Oregonians.

Sincerely,

Governor Tina Kotek

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