

**Nevada Local Agency Formation Commission**

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Date: February 23, 2017  
To: LAFCo Commissioners  
From: SR Jones, Executive Officer  
Subject: Initial Workshop on Sphere of Influence Update for Nevada City

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**Summary**

A preliminary draft update of the Sphere of Influence Plan for Nevada City has been prepared by LAFCo staff. The City of Nevada City has concerns about LAFCo staff's recommendations, and has prepared a request relative to the sphere boundary for the Commission to consider.

The Commission is asked to consider both LAFCo staff and City recommendations and provide feedback on the proposed sphere boundaries and documentation, so that LAFCo staff may proceed with completing the analysis and the environmental review. The next stages of the process will include preparation of the environmental document and circulation of the sphere plan for agency and public review.

The materials provided with this report include the first two chapters of the Preliminary Draft Sphere of Influence Plan prepared by LAFCo staff, as well as the City's request relative to the appropriate sphere boundary.

The sphere update process will be completed when the Commission takes action following a noticed public hearing.

**Background**

LAFCo law defines a sphere of influence as *a plan for the probable physical boundary and service area of an agency, as determined by the Commission* (Government Code Section 56076). LAFCo is required to adopt a sphere of influence for each city and district in its jurisdiction, and to review each sphere plan and update as necessary every five years.

The City of Nevada City, with a population of 3,260, includes approximately 1,224 acres; the City's sphere presently includes 2,907 acres. The City provides a full array of municipal services, including water, wastewater, fire protection, parks and recreation, street improvement maintenance and general government services (i.e., planning and community development, police, circulation planning and solid waste).

Nevada County LAFCo adopted the original sphere of influence for Nevada City in 1983. In 2008, LAFCo reviewed and updated the sphere of influence plan; however, the sphere boundary itself was not modified and remained as adopted in 1983 (see *Exhibit 1*). LAFCo staff's recommended sphere boundary is provided herein as *Exhibit 2*. The City's formal request has been included as *Exhibit 3* (Note: the City's request will be distributed separately following receipt). The first two chapters of the Preliminary Draft Sphere of Influence Plan (prepared by LAFCo staff) is included as *Exhibit 4*.

**Changes Affecting Spheres of Influence in Nevada County**

Since 1983, there have been a number of important changes impacting sphere of influence reviews and updates. These include amendments to LAFCo law and to Commission policy, as well as changes in local government financial circumstances and land use policies.

1. **Definition of Sphere of Influence:** In 1983, LAFCo law defined this term as “...the *ultimate* boundary and service area of a local government agency.” In 1994, Assembly Bill 1335 (Gotch) modified the definition to read “a plan for the *probable* physical boundaries and service area of a local agency, as determined by the Commission.” (Gov’t Code Section 56076). According to a Senate Local Government Committee analysis of the bill, this change was made “in response to concerns that the use of the term ‘ultimate’ in the definition forced LAFCos to plan for a distant future instead of using realistic forecasts.” (Detwiler, 1993).
2. **Requirement to Periodically Review and Update Spheres of Influence:** LAFCo is now required to review and update each agency’s sphere of influence plan every five years, as a result of the last major update of the Local Government Reorganization Act, which took place in 2000 with the adoption of Assembly Bill 2838 (Hertzberg). This requirement for review and update stems from the recommendations of the Commission on Local Governance, as stated in its report *Growth Within Bounds*, which advised that “meaningful spheres will not be possible unless they are regularly updated based upon comprehensive studies and they incorporate actual and projected information on trends in growth and development, service capacities, and public preferences.”
3. **Requirement to Prepare Municipal Service Reviews:** Before taking action on a sphere of influence, LAFCo is now required to review municipal services provided by each agency, including projections for growth and development; present and planned capacity of facilities and adequacy of services, including infrastructure needs and deficiencies, the agency’s financial capability to provide services and the service relationships between providers in the region. This requirement also came into effect in 2000 with the adoption of AB 2838 (Hertzberg).
4. **Commission Sphere Policies:** The Commission’s sphere of influence policies now require that a sphere plan will include a phased twenty year plan for annexation of the lands within the sphere, designating Near Term and Long Term horizons. Commission policies also state that LAFCo will not include lands in an agency’s sphere that are unlikely to require the services provided by the agency, or lands which cannot feasibly be served by the agency. Commission policy now also provides for the designation of “Areas of Interest,” which are areas beyond an agency’s sphere of influence where land use and other decisions may impact the agency.
5. **General Plans:** Since 1994, the County’s General Plan has included policies that respect City land use designations within spheres of influence and that foster coordination between the County and the City with respect to annexation and development. The City’s General Plan (adopted in 1980) specifies land use designations for the area beyond the City’s boundaries. Following LAFCo’s 2008 update of the City’s sphere, City and County staff worked together to review and compare City and County land use designations of each parcel within the City’s sphere and to identify parcels where the General Plan designations were not compatible. This exercise revealed that the designations for most parcels were compatible, but identified five parcels with potentially incompatible designations. Note that these properties have all been recommended by LAFCo staff for inclusion in the sphere of influence.
6. **Increasing Cost of Providing Municipal Services:** The cost of providing municipal services, especially fire and police, have increased dramatically since 1983. Annexation of lands located considerable distances from current City boundaries would likely impact the City’s fire and police service costs.
7. **Development and Buildout of Sphere Lands:** Many of the parcels included in the 1983 sphere of influence are now developed for residential use, utilizing private septic systems and wells (or are connected to Nevada Irrigation District’s treated water system), and do not require City services.

**Present Sphere Boundary**

The City’s boundaries presently include approximately 1,224 acres in 1,761 parcels. The Sphere of Influence as last updated in 2008 includes just over 2,900 acres in 950 parcels, which would allow for the City’s size to triple. The sphere boundary is divided into four five-year planning horizons, consistent with Commission policy at the time, as outlined in the following table:

Sphere of Influence Updated 2008	Improved		Unimproved		Total	
	Acreage	Count	Acreage	Count	Acreage	Count
<b>Present City Boundaries</b>	<b>711</b>	<b>1477</b>	<b>512</b>	<b>284</b>	<b>1224</b>	<b>1761</b>
Current Sphere horizon	110	80	106	35	216	115
2013 Sphere horizon	79	2	310	6	389	8
2018 Sphere horizon	302	156	265	44	567	200
2023 Sphere horizon	1074	497	661	130	1736	627
<b>Total Sphere (excludes City Boundaries)</b>	<b>1566</b>	<b>735</b>	<b>1341</b>	<b>215</b>	<b>2907</b>	<b>950</b>

**LAFCo Staff Recommended Sphere Boundary**

LAFCo staff is recommending a sphere boundary that includes 1,480 acres in 398 parcels, with the remaining portions of the present sphere being designated as an “Area of Interest.” Details can be seen below:

2016 Sphere of Influence (LAFCo Staff Recommendation)	Improved		Unimproved		Total	
	Acreage	Count	Acreage	Count	Acreage	Count
Near Term (previously "Current")	110	80	106	35	216	115
Long Term (2013 + 2018 + 4 areas)	494	194	772	89	1266	283
<b>Total Sphere (excludes City Boundaries)</b>	<b>604</b>	<b>274</b>	<b>878</b>	<b>124</b>	<b>1482</b>	<b>398</b>

<b>Recommended Area of Interest</b>	<b>982</b>	<b>462</b>	<b>366</b>	<b>94</b>	<b>1348</b>	<b>556</b>
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Commission policy on spheres of influence specify that the Commission will not include lands that are unlikely to require the services provided by the agency, and that it will not include lands that cannot feasibly be served by the agency within the plan’s timeframe (Section III A 2.). Consequently, lands falling into two broad categories are recommended to be removed from the sphere of influence and instead designated as an Area of Interest of the City:

1. Lands that are already developed and have no need for City services. Most of these properties are residential and use private septic systems. Many are served by Nevada Irrigation District, or rely on private wells.
2. Public lands owned by federal or state government that are unlikely to develop and require City services.

The sphere boundary recommended by LAFCo staff retains 1482 acres in the sphere. The major portion of these lands were designated by the 2008 sphere of influence update as within the Current, 2013 and 2018 Sphere Horizons. In addition, three areas from the 2023 Sphere Horizon are recommended for inclusion in

consideration of their development potential (Indian Flat Area, Highway 20 Frontage Area and the Highway 49 Planned Development Area).

The following list includes brief descriptions of the most significant areas recommended to be retained in the City's sphere:

- Indian Trails: This 30-lot estate residential project is located on the west side of the City, adjacent to the City-owned Hirschman's Pond property. Although the development receives treated water from Nevada Irrigation District and uses private septic systems (and thus does not require City services), the area is recommended for continued inclusion in the city sphere as the City holds title to the project's the trail system.
- Sugarloaf Mountain and Manzanita Diggings: This area includes seven properties located north of the City on both sides of Coyote Street. The City holds ownership to Sugarloaf Mountain (31 acres) and intends to apply for annexation, proposing to designate it for Open Space. The Manzanita Diggings properties, comprised of two properties (totaling 15 acres), is located on the other side of Coyote Street from Sugarloaf. These properties have development potential under the City's General Plan. The Nevada County Consolidated Fire District owns two parcels (totaling 5 acres) in this area; one parcel is the site of NCCFD's Station 84 and is connected to the City's public sewer system. The southern half of a large (110 acre) parcel in this area is also recommended for continued inclusion in consideration of its City General Plan designation for Planned Development.
- Highway 20 (north of Nevada City) Frontage Area: This residential area includes 12 parcels and is located adjacent to the Manzanita Diggings area north of Nevada City, on the northwest side of Highway 20. Although most of the properties are already developed for residential use, the area may provide access points for the Manzanita Diggings area, discussed above.
- HEW (Health, Education and Welfare) Building: Located off Willow Valley Road east of the City boundary, this property was the site of a County-owned facility that has since been purchased by a local developer. The site is connected to the City's wastewater system, as are several other properties in the immediate vicinity. The area is recommended for continued inclusion in the sphere in consideration of its development potential and the extension of City sewer service.
- Hurst Property: This 90-acre area is adjacent to City boundaries off Gracie Road; the City's General Plan designates this area for Planned Development.
- Prospector Nursery/Caltrans: This area is located south of Gold Flat Road, and includes a commercial nursery, the Caltrans facility and lands designated by the City for Planned Development. Note that the Caltrans facility is connected to the City's wastewater system.
- Gallelli Properties: This area is located west of the current City boundary and Providence Mine Road and includes 162 acres in 5 separate parcels. The southern portion is designated for Planned Development by the City's General Plan, while the northern portion is designated for Open Space.
- Juvenile Hall Property: Located adjacent to the western City boundary off Highway 49, this County facility has been connected to the City sewer system.
- Highway 49 Planned Development: This area is located west of the existing City boundary, south of highway 49 and north of American Hill Road. Portions are designated for Planned Development by the City's General Plan.
- 'Incompatible Parcels:' During the 2008 sphere update, City and County staff identified five properties (one appears to have been subdivided, so there are now six) for which County and City General Plan designations are not consistent. Each of these properties are included within the recommended sphere.

The portions of the 2023 Sphere Horizon that are recommended for removal from the sphere of influence would be designated as an “Area of Interest” in order to ensure the City is notified of development proposals and other projects that may have potential for impacting the City. The proposed “Area of Interest” consists of lands that had previously been included in the 2023 sphere horizon (with the exception of several of the areas listed above, including Indian Trails, Highway 20 frontage, and the Highway 49 Planned Development areas). This area includes 462 developed properties totaling 982 acres, and 94 unimproved properties totaling 366 acres.

Note also that the City indicates that its water treatment plant is located on two parcels off Gracie Road south of the Hurst Ranch properties; adjacent to those two parcels is a property owned by the Nevada County Gun Club, which is connected to City water. Staff suggests the Commission may want to include these three parcels in the sphere.

### **Sphere Boundary – City Request**

The sphere boundary option requested by the City would retain all lands in the present (2008) sphere boundary. The City’s concern relative to removing lands from the present sphere is that it would limit the City’s ability to control development in these areas.

This concern specifically relates to the City’s interpretation of the County’s General Plan policies, which include provisions designed to promote County/City cooperation and coordination of land uses. These provisions include:

- Policy 1.3.8.: Within the City/Town spheres, the Nevada County General Plan Land Use Maps will generally reflect the City's/Town's General Plan land use mapping. In some instances, the County may provide for a less intensive land use due to infrastructure capability, environmental constraints or effect on land use and development patterns outside the city's sphere. However, the County's Plan will not preclude implementation of the City's/Town's Plan by providing for a significantly more intensive land use than the City's/Town's Plan., and
- Policy 1.3.9.: For all discretionary projects within a City's/Town's sphere, the County shall first request that the City/Town determine whether or not it desires to annex the project. If the City/Town does desire annexation, the applicant will be directed to the City/Town. If the City/Town does not desire annexation, the application will be referred to the City/Town for review and comment.

Although designation of the removed lands as *Area of Interest* would promote communication between City and County, the City has voiced concern about being limited to commenting on development proposals. The City has also voiced concerns that the County could modify zoning designations in the area, which may result in development projects that are entirely different than the current zoning.

The City’s recommended sphere boundary and supporting documentation is included herein as *Exhibit 3*.

### **Annexations and Annexation Plans**

Since 1949, Nevada City has completed Nevada City has completed 49 annexations resulting in the addition of 745 acres to the City boundaries. Since the last sphere update in 2008, the City has completed four annexations:

- Silva Avenue (2008), an annexation of a single 4.5 acre parcel.
- Northside (2009) an annexation of 61 acres in various areas north of town. This annexation brought City-owned Hirschman’s Pond into the City, and cleaned up several areas where the City boundary bisected parcels.

- Gracie Commons (2009), an annexation of less than one acre, associated with a residential project on Gracie Road which has not yet been constructed.
- Grove Street (2013), an annexation of four parcels at the end of Grove Street, initiated in response to a failed septic system on one lot.

Relative to future annexations, City staff has discussed plans to initiate annexation of Sugarloaf Mountain, a City-owned property north of the current boundary, east of Coyote Street. This annexation would likely include several intervening properties, including the Nevada County Consolidated Fire District's Station # 84 on Coyote Street.

From time to time, City staff has also discussed plans for annexation of other areas, including:

- The former Health Education and Welfare facility on Willow Valley Road, which is now privately owned.
- Manzanita Diggings property, which is located west of Coyote Street, nearby the Sugarloaf property.

### **Process**

At today's workshop, staff is requesting the Commission provide direction as to the appropriate boundary for use in preparation of the environmental analysis of the sphere update. City staff will be on hand to discuss the City's recommendations and concerns.

At a subsequent meeting, following the preparation and circulation of the environmental review, the Commission would take action on the sphere of influence update.

cc: Mark Prestwich, City Manager (via e-mail)  
Amy Wolfson, City Planner (via e-mail)

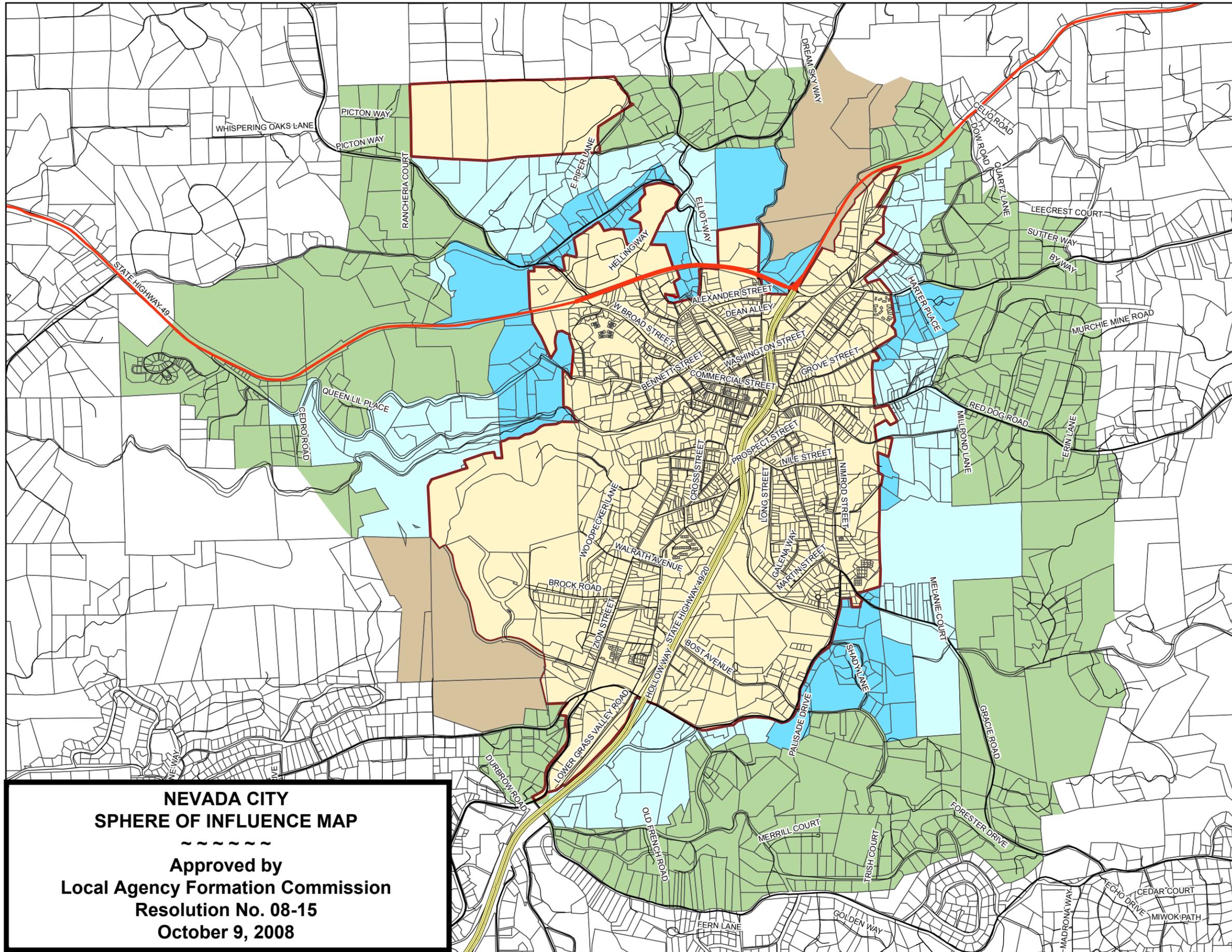
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1 Nevada City Sphere of Influence Map, Approved by LAFCo Resolution 08-15

2 Recommended Nevada City Sphere of Influence Map (recommendation by LAFCo staff, December 2016)

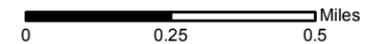
3 Nevada City Request, including map and supporting documentation (Note: the City's request will be distributed separately upon receipt)

4 Excerpt from the *Preliminary Administrative Draft* of the Sphere of Influence Plan for Nevada City



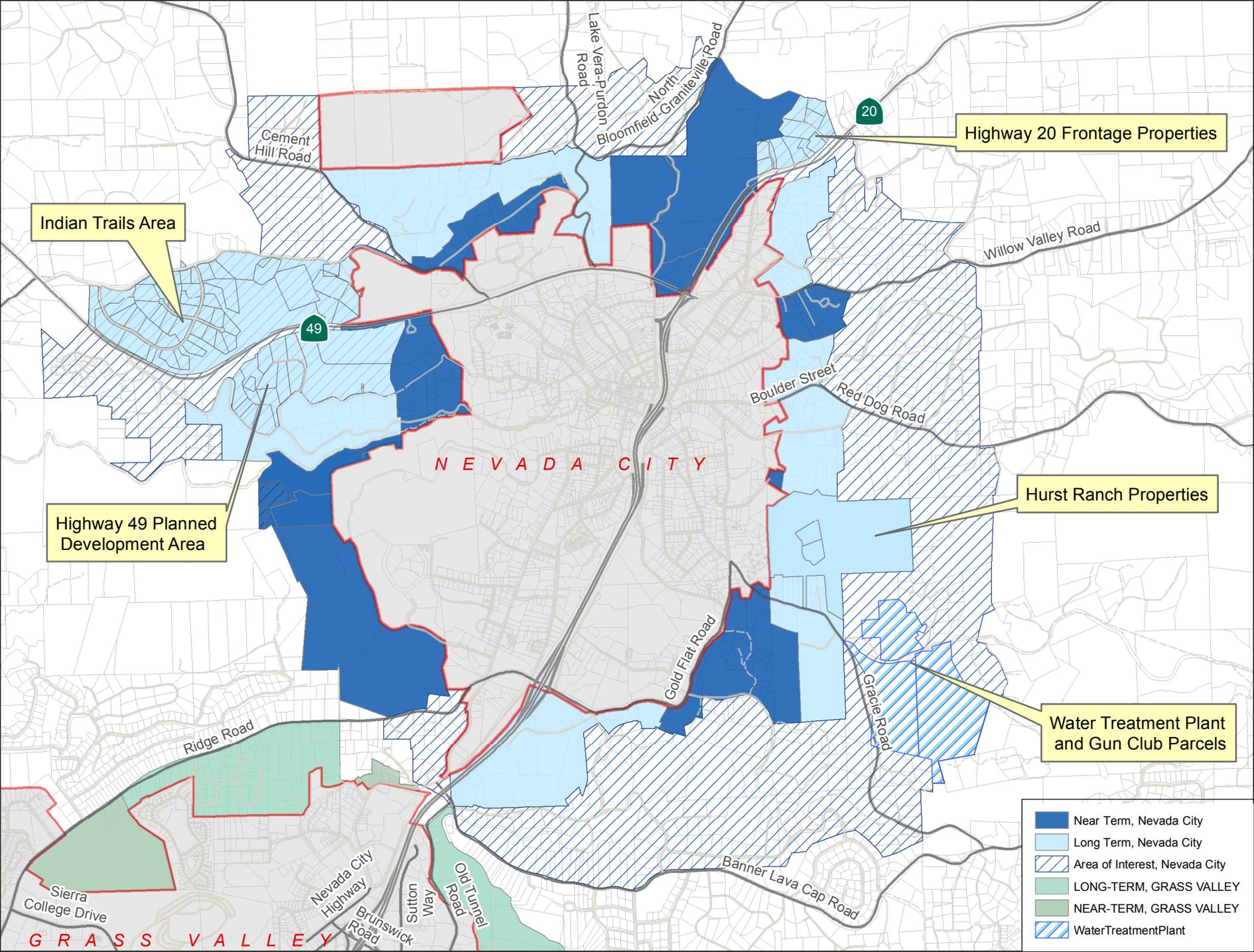
**Legend**

-  Parcel Boundaries
-  City Limits
-  Current Sphere Horizon
-  2013 Sphere Horizon
-  2018 Sphere Horizon
-  2023 Sphere Horizon



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**NEVADA CITY  
 SPHERE OF INFLUENCE MAP**  
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**Approved by  
 Local Agency Formation Commission  
 Resolution No. 08-15  
 October 9, 2008**



# **City of Nevada City**

## **Sphere of Influence Recommendation**

### **February 2017**

At the January 25, 2107 City of Nevada City Council meeting, Nevada County Local Agency Formation Commission (LAFCo) Officer SR Jones presented a LAFCo staff-developed proposal to substantially reduce Nevada City's Sphere of Influence (SOI) boundary. If adopted, the sweeping proposal would shrink the LAFCo-approved Nevada City SOI by approximately 50%. Numerous concerns were raised and discussed by the City Council, City staff and community members that evening and again at the City Council meeting of February 8.

The following narrative explains why the existing Nevada City SOI boundary approved in 1986, reconfirmed in 2002, and remained unchanged by the LAFCo Board in 2008 continues to be consistent with State statutory provisions and Nevada County LAFCo policy requirements, and should remain so during this 2017 review. No significant changes have been made to LAFCo Law (the Cortese-Knox-Hertzberg Act of 2000) since 2008 which would require a different determination.

#### **Background**

LAFCo's 2008 Nevada City sphere update, which retained the current sphere boundaries, documented the capacity of the City's facilities and infrastructure and confirmed the adequacy to meet current and projected demands. The LAFCo determination also concluded the SOI aligned with the following LAFCo policies:

- It encourages orderly growth and development, and the logical formation and determination of City boundaries.
- It discourages sprawl.
- It encourages a review of public facilities and services to ensure that affected populations receive efficient and effective governmental services.
- It continues to preserve identified open-space lands.
- It does not divide or adversely affect any social or economic communities.

Continued investment in City facilities and services along with current Municipal Service Reviews show the infrastructure capacity has been substantially enhanced since then; no inadequacy justifying a reduction of the sphere is noted in the LAFCo Officer's current proposal.

The change in the definition of "sphere of influence" to delete the word "ultimate" from the prior definition of "probable ultimate physical boundaries and service areas" of a city or

district was not a recent change, but was made by AB 1335 adopted in 1993, **and was already in effect at the time of the two prior determinations of Nevada City's current sphere**. Furthermore, the State Senate and Assembly proceedings do not give any indication that the change was intended to authorize LAFCo to initiate reduction of determined spheres.

Where State LAFCo law does address procedures relating to sphere updates, it appears to contemplate enlargement rather than reduction, addressing only those changes requested by a city to mandate meetings by city and county representatives to discuss the proposed sphere and explore methods to reach agreement on development standards and planning and zoning in a manner that "...reflects the concerns of the affected city..." and promotes "... logical and orderly development..." and then providing that the commission shall give "great weight to that agreement."

Today, Nevada City and Nevada County have the equivalent of an agreement on development standards, planning and zoning for the current sphere with complimentary General Plan policies providing the County will not impose more intense land uses than the City within its sphere and allowing the City to annex and process development proposals within its sphere. As long as those General Plan protections refer to properties within the City's sphere of influence, they would no longer apply to areas removed from that sphere, overriding the City and County General Plan provisions and effectively transferring ultimate planning authority over removed areas from the City to the County.

On October 25, 2016, the County Board of Supervisors considered a change to those policies on an individual Board member request but gave no direction to proceed with any change, indicating satisfaction with the current process of working things out between City and County staffs. Reducing the current sphere instead of changing the applicable General Plan treatment of sphere property would be an "end run" to similarly allow the County to authorize development in the areas removed from the current sphere in disregard for concerns of the City.

There is no provision in State law for removing sphere properties and creating a special designation of "Areas of Interest" and the City is unaware of any other LAFCo that has done so. Absent statutory authority, it must be assumed that properties are either "in" or "out" of the sphere of influence provided for by State law.

There is California Supreme Court case authority in *Bozung v. Local Agency Formation Commission* (1975) 13 Cal.3d 263 that LAFCo approval of annexation was a necessary step in the chain of events that would culminate in a physical impact on the environment so that annexation transferring planning authority over land from a county to the annexing city was not exempt from CEQA. This reasoning suggests that the proposal to remove property from the City's current sphere, effectively transferring planning authority in the removed area from the City to the County, would likewise be subject to LAFCo-funded environmental review to assess the impacts.

In the past, when reasonable requests have been made to Nevada City to change its sphere, the City has been cooperative. For example, in 2011, when it was pointed out that five lots on the fringe of Nevada City's sphere were on Grass Valley water and sewer in Grass Valley's water shed, Nevada City voluntarily agreed to removal of those parcels from its sphere and passed a Resolution to that effect. No such logic supports the current proposal for reduction.

To the extent that there is any concern over the pace of annexations since the 2008 retention of the current sphere, this can be explained by two factors: 1) the LAFCo Officer has indicated that annexation requests must include development proposals to be considered, and 2) there has been a national recession since about 2008 pausing development projects; no new project applications have been filed for development in the sphere, effectively limiting annexations to properties developing a need for City services, (e.g. failed septic systems necessitating City sewer hookups). When it looked like the HEW property (on City sewer) might be sold and developed, Nevada City passed Resolution No. 2011-56 indicating an intent and desire to annex the HEW property and intervening properties as soon as appropriate, but was informed that no annexation could occur without a development plan, which was not forthcoming and remains so.

Pursuant to Government Code 56425(e), LAFCo must consider four factors when determining the sphere of influence for each public agency:

1. The present and planned land use in the area, including agricultural and open-space lands.
2. The present and probable need for public facilities and services in the area.
3. The present capacity of public facilities and adequacy of public services provided by the agency.
4. Any social or economic communities of interest in the area that the Commission determines are relevant to the agency.

### **Present and Planned Land Use**

The overall goal of California LAFCo's is to encourage orderly growth and development and to **discourage urban sprawl**. The Legislature's specific policy statement declares a preference for accommodating growth within, or through the expansion of, the boundaries of local agencies and that responsibility should be given to the agency or agencies that can best provide government services. The present SOI boundary represents areas currently served by the City in terms of recreation service, fire service, police service, and arterial roadways.

Presently, the County and City engage in a dialogue for properties within the existing SOI using the adopted policy language shown below. This has worked well and has resulted in logical and orderly development consistent with the City's General Plan and with the County General Plan which provides as follows:

*Policy 1.8.3 Within the City/Town spheres of influence, the Nevada County General Plan Land Use Maps will generally reflect the City's/Town's General Plan land use mapping. In some instances, the County may provide for a less intensive land use due to infrastructure capability, environmental constraints or effect on land use and development patterns outside the city's sphere. However, the County's Plan will not preclude implementation of the City's/Town's Plan by providing for a significantly more intensive land use than the City's/Town's Plan.*

*Policy 1.8.4 "For all discretionary projects within a City's/Town's sphere, the County shall first request that the City/Town determine whether or not it desires to annex the project. If the City/Town does desire annexation, the applicant will be directed to the City/Town. If the City/Town does not desire annexation, the application will be referred to the City/Town for review and comment."*

These policies would no longer be applicable for any portion designated as an "Area of Interest."

Reducing the sphere has the effect of indirectly rendering portions of the County and City General Plans ineffective to the extent that they provide that County land use designations not be more intense than City designations within the City's sphere of influence and that when development is proposed within the City's sphere of influence the City can elect to annex and assume concurrent processing of the application. Removal of properties from the City's sphere of influence would render these provisions inapplicable.

To the extent properties are removed from the City's sphere of influence, the City's role in development approval would be reduced to merely being able to comment so that it could be approved by the County over the City's objection (this type of development has occurred in the County in the past). If properties are removed from the City's sphere of influence, the County could change the zoning to allow uses more intense than provided for in the City's designation.

The current sphere was based in part upon protecting the immediate watershed from adverse impacts from development that inadequately addresses water and sewer concerns. The City has the capacity to serve the properties within its sphere. The County does not and cannot require connection to City services, especially sewer connections for new development and failed septic systems creating potential environmental impacts, especially with respect to degradation of the City's watershed.

Under the LAFCo Officer's proposal, there would be no obligation for the County to maintain land use patterns consistent with City interests. This possible conflict has the potential to degrade the City's view shed, watershed, and overall quality of life afforded to its residents, along with those residents in the present SOI.

## **Present and Probable Need for Public Facilities and Services in the Area**

The probable need for public sewer and water service is imminent as residential septic systems fail and as drought patterns continue. It is not unreasonable to imagine that all current SOI properties may seek sewer service from the City within the next 20 years (long-term sphere horizon), especially given the 50-year expected life span of most septic systems. The need to connect to City sewer would likely be a result of one or more of the following factors:

- Groundwater or surface water contamination due to poorly functioning septic systems;
- Undesirable maintenance and costs associated with their onsite septic system;
- Desire to convert areas currently used for septic tanks and leach fields for other uses; and
- New regulations that may prohibit or discourage new septic systems and encourage conversion of existing units.

The City has more than enough capacity to provide continued and expanded service to the present SOI as needed. The City has service agreements for fire, water, and police services and longstanding relationships with related parties. The harmonious manner in which these service agreements are carried out provide better response and service to the entire community, including that of the City, its entire SOI, and arguably beyond that boundary. A reduction in the present SOI has the potential to disrupt this balance of health and safety.

The SOI offers opportunities for orderly growth in areas that are immediately adjacent and connected to infrastructure and other essential services. This is consistent with the overall goal and policies established by State law to promote logical and orderly development and to prevent urban sprawl. Nevada City is a “full-service city” that provides water, wastewater, police, fire protection and emergency response services. Housing, retail and employment are in close proximity to jobs and essential services, and the character and sustainability is preserved by the City’s General Plan and current SOI policy.

Conservation and protection of water resources riparian areas, natural environment and forestland within the City boundary and SOI is also further defined in the City’s General Plan. As areas are annexed into the City, important considerations are given to preservation and recreational use of open space.

The City has prepared a map (see Attachment A) that breaks out the recommended Area of Interest into seven distinct geographic areas. Explanations for why each area is already consistent with LAFCo policy and should remain within the current SOI are described below:

- **Geographic Area 1:** This area is adjacent to both the Old Airport property and the Sugarloaf property. The City’s primary access road to its Old Airport property

traverses this area. This area is primarily developed with low density residences. It encompasses the ridgeline and the City's northern view shed. This area has a history of hydraulic mining and, as such, contains soils that are likely marginally able to support septic repair areas once the current systems fail. As intervening parcels experience failing septic systems and are annexed to the City, sewer lines will be extended to eventually serve this area as well.

- **Geographic Area 2:** Area 2 encompasses medium density residential uses and is served by Willow Valley Road and Boulder Street. This area lends itself to walkable improvements and housing, which could make it a good fit for well-designed workforce housing in the future. This area also encompasses the watersheds of Deer Creek and Little Deer Creek. As previously discussed degradation of these resources could have severe adverse implications for the City's water supply, as well as ecological and aesthetic resources. Deer Creek is a prominent resource throughout the City. Any degradation of this resource would have detrimental impacts on the City's sense of place, history, and quality of life.
- **Geographic Area 3:** This area encompasses the City's water treatment plant and also a portion of the Little Deer Creek watershed. The City currently serves the Nevada County Sportsman's Club with treated water so it does not make sense for this to be outside of the SOI. Rather, City staff would support expanding this area of the SOI to encompass the point at which Little Deer Creek diverts to the canal that provides the City's water supply.
- **Geographic Area 4:** This area represents the City's southern view shed and serves as a drainage shed from the Banner Lava ridge. There are several large and developable parcels that would be best suited for workforce residential development. The topography of this area is such that it lends itself to gradient water flow from the City's water plant. The City has the capacity and, because of the gradient, the ability to serve this area with sewer.
- **Geographic Area 5:** This area is a primary entry point into the City and the point closest to the City of Grass Valley. Land use patterns in this area must be seriously considered in terms of their impact on maintaining a distinct boundary between the two cities and avoiding sprawl that could degrade this important distinction. This is an area the City desires to annex in the near term.
- **Geographic Area 6:** This area is served by Old Downieville Highway, which provides a direct route into the heart of downtown. On both the north and south sides of this area, developed trails exist that are maintained by the City. Any land use pattern changes here could have a direct impact on the trails as a recreation amenity. It is worth noting that the City hopes to eventually connect the Tribute Trail with the Hirschman's Trail system sometime in the future. Furthermore, the

Eden Ranch subdivision is served by a package treatment plant. The City has received calls from residents of this subdivision that express concern over the adequacy of this septic system. The City anticipates that the system will eventually fail and will necessitate a large annexation to serve that area with sewer.

- **Geographic Area 7:** The City has deeded road access through this area to the Old Airport property. It also has a history of hydraulic mining leaving marginal soils and questionable ability to support adequate repair areas after septic failure. The City has the capacity and, because of the gradient, the ability to also serve this area with sewer.

Other considerations include the following:

- **Watershed Degradation:** The present SOI boundary encompasses watersheds for Deer Creek, Little Deer Creek, Gold Run Creek, Oregon Ravine, Woodpecker Ravine, Woods Ravine, Rogers Williams Ravine, and Manzanita Ravine. All of these drainages run into the heart of the City. Potential upstream degradation and contamination of these water resources would directly impact aesthetic, ecological, and recreational resources within City limits. Most alarmingly, degradation of Little Deer Creek in particular, will directly impact the City's water supply. The City's authority over land uses within the SOI is crucial for providing adequate protection of these resources from adverse development impacts and/or altered land use patterns. If the SOI is reduced in the manner proposed by the LAFCo Officer, land use patterns could significantly change in a manner that could degrade water quality and severely impact the way in which City residents, and residents beyond, enjoy these amenities for their aesthetic, ecological, and recreational value.
- **Septic Tank Failure:** The County's hydraulic mining legacy resulted in marginal soil quality in many areas of the County, including approximately 30% of the present City SOI. Septic drainage fields are required to meet standard percolation rates which are largely determined by the condition of top soil. Historic mining practices removed the top soil in many areas of the SOI and, as such, compromised their ability to accommodate standard septic systems. All areas of the SOI, with the exception of the Eden Ranch subdivision, are served by individual septic systems or are already connected to City sewer. A standard septic system lasts approximately 50-years. With consideration of the substandard soils in the area, this life span may be considerably less than that and repair areas will be difficult to locate. The SOI boundary includes many areas that the City expects to be serving as these systems begin to fail. Many of the annexations that have occurred over the last 25 years were the result of failing septic systems. On any given day, the City's population swells to 6,000 to accommodate normal business, including the Rood Center, School activity, general commercial activity, and other business. Taking into account this daily population swell, the sewer capacity runs at just over 50% capacity. The City's Wastewater Treatment Plant has capacity for

0.69 million gallons per day (mgd). Current average dry weather flow ranges from 0.38 to 0.47 mgd. The City has more than enough capacity to serve the area included in the SOI. Because all septic systems will eventually fail, the need to serve the present SOI area will intensify every day forward.

- **Well Failure:** The nature of the Nevada County foothills are such that ground water resources are provided in reservoirs of fractured rock. California regularly experiences periodic extended drought conditions. The ability to regulate and monitor water use will become increasingly important throughout California as population increases and drought patterns continue. While much of the SOI is within the Nevada Irrigation District Boundary, service agreements exist between NID and the City that allow service to be provided depending on proximity and eligibility of existing infrastructure. There are several properties in the present SOI that are already served by City water. There are also many areas in the SOI that are adjacent to existing City water line facilities. City facilities can be extended where NID facilities do not exist using our service agreement. Water sources for the City's water system include Little Deer Creek and the DS Canal. The City's water treatment plant has capacity for 2 million gallons per day (mgd) and currently treats a maximum daily demand of 1.5 mgd. The City has adequate water treatment, storage and distribution facilities which can be expanded as necessary to accommodate projected growth within the current City limits and SOI.
- **Affordable Housing:** Both the County and the City have acknowledged that our community is in need of additional affordable housing. Effective affordable housing is typically provided near commercial districts and within high density residential developments. The nature of high-density residential development (e.g. City R3 zoning equals 18 units/acre) requires that they be served by a sewer system as opposed to septic systems. Because the County does not have any sewer treatment plants available to serve the area within the present SOI, it is reasonable to assume that any property proposed for an affordable housing project within the SOI would be served by City sewer, and therefore require annexation to the City. The City is currently meeting its State mandated share of R-3 affordable housing zoning and can be expected to do so in the future. In addition, the City has a very progressive inclusionary housing ordinance which requires that 30% of all new housing developments, multi-family and single family housing subdivisions, include 30% smaller, affordable units (moderate income or below) which will remain affordable in the future. An additional 20% of homes in new single family subdivisions are required to have second units for affordable housing. This results in about 50% affordable housing in new subdivisions. Since not all new housing developments are multi-family, this ensures that all new housing projects will contribute to the affordable housing stock. This method has been used on a number of housing projects, including all of those approved in the City since it was adopted. As the City annexes additional land, these policies will be in effect, which

is not the case under County regulations. Another consideration is proximity of housing to jobs. The City serves as the hub for the County of Nevada (the area's largest employer), County Courthouse, Tahoe Forest Service, Caltrans and several Fire Districts. The SOI offers opportunity for development that is contiguous to the City and close to essential services with greatest opportunity for additional workforce housing. Greater density can occur with public sewer.

- **View Shed:** The City's view shed is of particular importance in terms of preserving our sense of history and general character as a city nestled within a wooded enclosure. Altering any of the land use patterns in any part of the view shed would irreversibly compromise this special character that is largely unique to Nevada City and lose the City's charm so cherished by City residents, sphere residents, and tourists. In fact, the 2008 LAFCo Sphere of Influence update references "the City's important view shed" and notes:
  - "Future discretionary development and timber harvesting within this area would potentially impact the visual quality of the City. The General Plan includes the objective to 'foster a compact rather than a scattered development pattern in order to preserve the existing impression of a tightly clustered, fine-grained core within a tree-covered, rural surroundings.' "
  - "The City has also devoted significant attention to the entry points into the City. Loss of control over development and landscape-level maintenance could undermine the City's efforts to maintain the sense of arrival in the City proper, as well as producing unnecessary sprawl."

### **Present Capacity of Public Facilities and Adequacy of Public Service**

Consistent with LAFCo policy expectations, the City of Nevada City already provides services and contributes significant municipal facilities that ensure the adequacy of public service to SOI properties, as outlined below:

- **Wastewater (Sewer) Treatment Facility:** Nevada City owns and operates a tertiary wastewater treatment facility designed with capacity to accommodate properties in the current SOI. The Plant has a capacity of 0.69 million gallons per day (mgd). Current average dry weather flow ranges from 0.38 to 0.47 mgd, indicating the facility has the capacity to serve the entire SOI. The facility's design capacity and City's subsequent significant capital investments over time were made because the facility anticipated serving all parcels within the current SOI boundary (the City has invested approximately \$6 million in improvements since 2006/07 alone). A significant determination in developing the current SOI was the fact that sewage from the SOI parcels would flow by gravity to the City's wastewater facility. Sewer mains currently are at the City limits against the SOI.

Importantly, the City has anticipated that the current SOI parcels would eventually contribute revenue to the facility, offsetting the City's maintenance costs and resulting in its optimal operation. A reduction of the sphere would threaten future revenues as there is potential SOI parcels could be served by alternate systems like the failing Eden Ranch package treatment plant. This is simply unacceptable, especially given the fact that the City has a track record of annexing/serving parcels that experience failing septic systems and extending lines to these areas, and considering the substantial environmental benefits associated with connecting to a sanitary sewer system.

- **Recreation Service:** The City presently manages approximately 10 acres of developed park area and 278 acres of Open Space, which includes approximately 12 miles of developed trail. The City is also in the preliminary stages of selecting a trail route on the Sugarloaf property which could add up to two miles of developed trail. Using the national standard of 5 acres per 1000 people, the amount of park and recreation amenities managed by the City could accommodate 57,600 people (roughly 58% of the entire County population). The extent to which the City serves the present SOI and beyond is further exemplified by the recreation programs provided by the City's park system, particularly those programs associated with the pool at Pioneer Park. In 2016, 90% of swim lesson participants and 75% of adult aquatics program participants were from outside of the city limits. Furthermore, 96% of summer camp participants were from outside of the city limits, demonstrating the City is already serving a much larger service territory.
- **Shared Fire Service Agreement:** For more than a decade, the City of Nevada City, City of Grass Valley and the Nevada County Consolidated Fire District (NCCFD), have operated under a Joint Operational Area (JOA) master agreement to provide reciprocal fire protection and emergency medical response services. Through each party's participation, significant improvements in response times, joint firefighting training and safety, supervision, personnel recruitment and overall greater efficiency is provided to the citizens, visitors, and businesses within each jurisdiction (and beyond).

Nevada City's Fire Station 54 serves as one of seven JOA fire stations. The station was constructed, maintained and is staffed by six City of Nevada City funded professional firefighters and three interns, allowing the City to provide three firefighters per shift. The station performs approximately 1,000 calls for service annually, approximately 50% of which are provided on behalf of Grass Valley and NCCFD territory. Removal of properties from the City's current sphere would not lessen the impact on the City's fire protection services because the JOA already serves these areas via its agreement. Furthermore, while Nevada City represents approximately 8% of the JOA population, Station 54 represents 14% of the

available JOA Fire Stations and contributes more dollars per capita than each of the other two agencies toward fire protection services.

The City's commitment to quality fire protection and emergency response services is underscored by the community's recent 82% support for a 3/8 cent special sales tax to fund three firefighter positions (incidentally, this measure also provided sustainable funding to augment sworn City Police Department staffing by 10%). These positions were previously funded by NCCFD for more than a decade. Citing financial difficulties, NCCFD notified the City on November 12, 2014 that it would remove three firefighters from Station 54 on April 19, 2015 leading to the City's sales tax measure.

Pursuant to the JOA response standards, the closest available fire apparatus/resource will respond to calls for services. Response protocols often require multiple engine response depending on the type of service call and it is common to see two or three of the agencies responding to service calls of this nature. As a testament to the effectiveness of the reciprocal Master Services agreement, the Insurance Service Office (ISO) recently improved the Public Protection Classification ranking of the City's fire suppression ranking from 5 to 3, which has the potential to lower insurance premiums for Nevada City residents. It is important to note that SOI properties annexed into the City no longer are required to pay the \$117.33 State Fire Fee.

- **Police Services:** The City's Police Department includes a sworn staff of 10 officers which will increase to 11 after April 2017 when Measure C takes effect. This will change the City's ratio of full-time officers per 1,000 residents from 3.1 to 3.4 which is approximately 30% higher than the 2.2 average ratio reported by the U.S. Bureau of Justice Statistics (BJS) for cities with a service population of 2,500 to 9,999. The Police Department's sworn staff is supplemented by a corps of seven Reserve Officers and three civilian staff that assist with records management, evidence management and community service activities. In 2014, the City re-established its canine program (previously retired in 1999) to assist with suspect detection/apprehension and narcotics detection. This "force multiplier" adds to the City's ability to provide high quality law enforcement services to the City and annexed SOI properties.

In order to plan for containing the cost of municipal services, particularly Police and Fire, the City has established a pension reserve fund to address anticipated increases in pension costs due to California Public Employees Retirement System (CalPERS) investment losses and reductions in the CalPERS discount rate. Furthermore, the City has the most cost-effective (e.g. lowest) public safety pension formula available for "Classic Members" within Nevada County in order to assist the City in containing costs. It's also notable that one-half of the City's

firefighters are already subject to the more cost-effective Public Employee Pension Reform Act (PEPRA) as well as 30% of the City's Police Officers. A 2016 compensation survey confirmed that City positions are at or below market, which helps contain City expenses. Additionally, with the support of Measure L, a five-year 3/8 General Tax adopted in 2012, the City has been able to utilize approximately \$432,000 annually for one-time City needs and to grow its reserve accounts to optimal levels. The City's financial position continues to improve and the addition of a 70-unit campground and short-term home rental ordinance in 2016 promises to substantially augment City revenues in forthcoming years providing the means for the City to ensure the sustainability of quality municipal services.

- **Roadways:** The road connections within the current sphere generally route traffic through Nevada City causing additional traffic within the City that could be cumulatively significant if not adequately addressed. Several arterial roadways and collectors: Gracie Road, Red Dog Road, Willow Valley Road, Cement Hill Road, North Bloomfield Road, Coyote Road, Old Downieville Highway, Nevada City Highway, and Pittsburg Mine Road serve as the primary access route from residential properties within the present SOI to schools, commercial destinations, and recreational amenities within the City limits. The intense use of these roads by those within the SOI entering the City on a daily basis is a key reason the current SOI boundary is suitable in its present configuration. Furthermore, the following 2008 LAFCo findings remain relevant:
  - *“Development within this area would potentially result in direct adverse traffic impacts on local City streets. Nevada City’s ‘prime circulation goal’ emphasizes ‘the importance of preserving the ‘eccentricities’ of the road network as an integral part of the special character of the City.”*
  - *“Circulation policies include ‘maintain reasonable traffic levels on local streets...’ and ‘limit development served by traffic capacity constraints.”*

### **Existence of any Social or Economic Communities of Interest in the Area**

The road system within the existing sphere of influence was developed during the gold mining era and resembles the spokes of a wagon wheel routing all traffic into downtown Nevada City to access highways 49 and 20 to leave the area. Similarly, the existing sphere is something of a bowl so that surface water drains to Nevada City as would any extension of sewer lines to service new development. The existing sphere also constitutes a view shed visible from downtown Nevada City that would be despoiled by inappropriate development. Any development within the existing sphere would rely upon the recreation facilities and trails established and maintained by Nevada City. All the properties within

the current sphere have Nevada City mailing addresses and have a social and economic community of interest with Nevada City for shopping, entertainment and employment.

The County provides **no** sewer or water service to the area and maintains **no** recreational facilities or trails for the area. The County has no fire department of its own. Other than providing employment opportunities at the Rood Center, the unincorporated area around Nevada City has no discernable social or economic community of interest with the County as contrasted with Nevada City. Yet inappropriate development within the view shed and watershed within the current sphere of Nevada City could and would have serious impacts upon Nevada City and the appearance and feel of the City which make it such a special, historical place to work, live or visit. Removing areas from the current sphere of Nevada City which furnishes a full range of services and depends for its livelihood on compatible development in adjacent areas and relegating development thereof to the preview of the County which provides no necessary municipal services (except law enforcement protection through the sheriff) and has no real social or economic community of interest would seem to be the antithesis of good, logical planning.

### **Recommendation**

One of the reasons Nevada City enjoys such a special reputation is the community's sense of place. Nevada City's "essence" as a small, compact, historic town surrounded by green, wooded hills is embodied in the City's General Plan. **Nevada City's sphere boundary remains an important reason why Nevada City enjoys this reputation.**

Nevada City's Mission Statement and Vision Statements reinforce this focus:

#### ***Mission Statement***

*The City of Nevada City is dedicated to preserving and enhancing its small town character and historical architecture while providing quality public services for our current and future residents, businesses and visitors.*

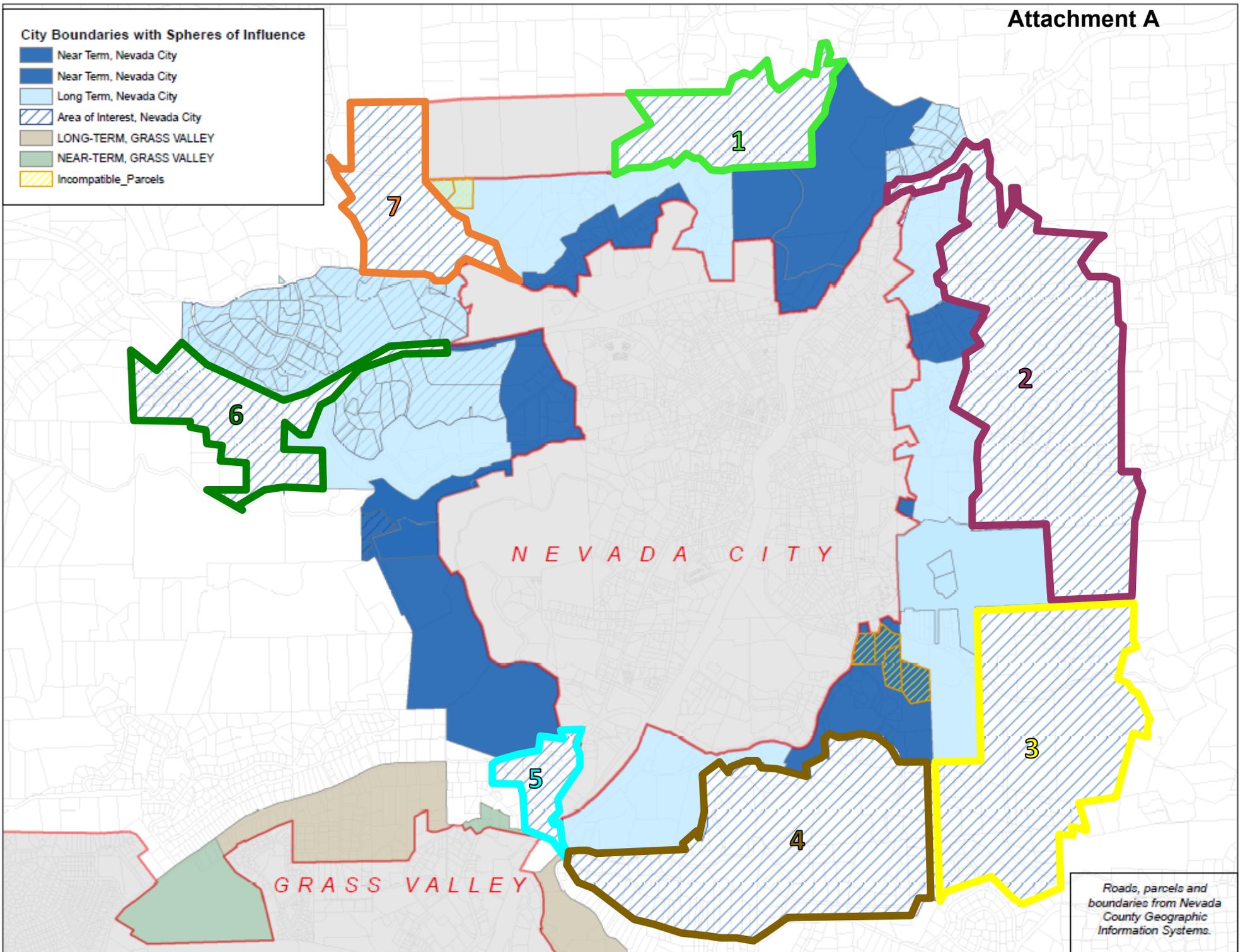
#### ***Vision Statement***

*Nevada City, nestled in the Sierra foothills, will be a vibrant, uniquely beautiful small town that balances art and culture, historical preservation and progress.*

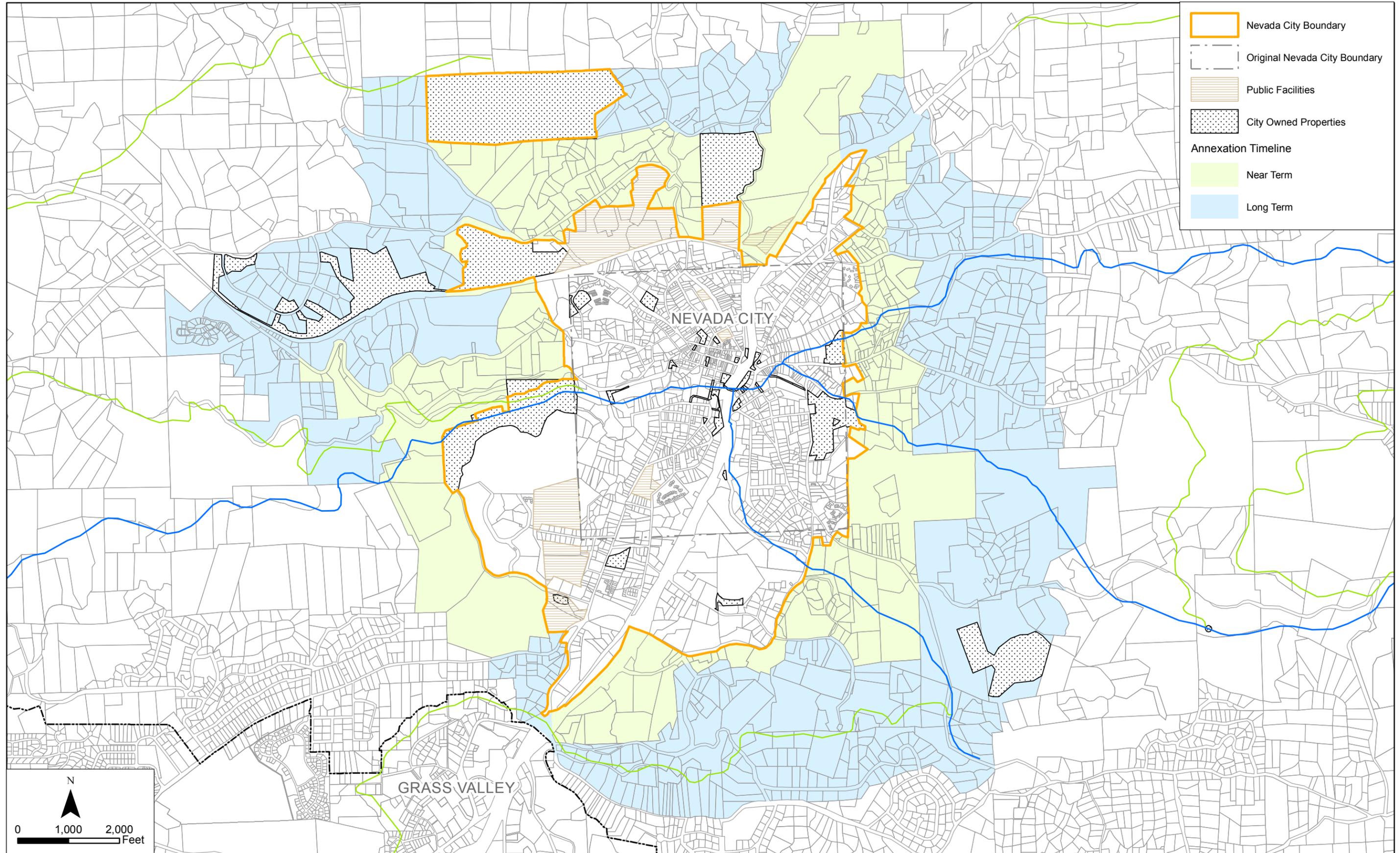
**The City of Nevada City has carefully reviewed the current sphere boundary and recommends the LAFCo Board reconfirm the existing SOI boundary because the current sphere meets each of the four factors outlined above.** The attached map provides both Near Term and Long Term recommendations for existing SOI properties (see Attachment B). Alternatively, the City would support the inclusion into the SOI of some or all parcels split by the 2023 Sphere Boundary, especially the parcel which provides the source of the City's water from Little Deer Creek.

City Boundaries with Spheres of Influence

- Near Term, Nevada City
- Near Term, Nevada City
- Long Term, Nevada City
- Area of Interest, Nevada City
- LONG-TERM, GRASS VALLEY
- NEAR-TERM, GRASS VALLEY
- Incompatible\_Parcel



# 2017 CITY OF NEVADA SPHERE OF INFLUENCE RECOMMENDATION



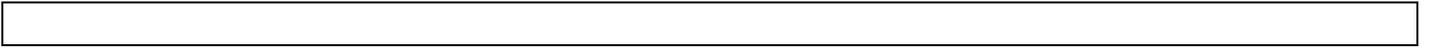
# CITY OF NEVADA CITY

# SPHERE OF INFLUENCE PLAN

**PRELIMINARY ADMINISTRATIVE DRAFT**

NEVADA LOCAL AGENCY FORMATION COMMISSION  
950 MAIDU AVENUE  
NEVADA CITY, CA 95959  
(530) 265-7180

**JANUARY 2017**



**CITY OF NEVADA CITY**  
**SPHERE OF INFLUENCE PLAN**

**PRELIMINARY ADMINISTRATIVE DRAFT**

**NEVADA LOCAL AGENCY FORMATION COMMISSION**  
950 MAIDU AVENUE  
NEVADA CITY, CA 95959  
(530) 265-7180

**JANUARY 2017**

**CITY OF NEVADA CITY  
SPHERE OF INFLUENCE PLAN**

**2016**

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**COMMISSION’S RESOLUTION**

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## EXECUTIVE SUMMARY

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The City of Nevada City was incorporated in 1856 and is a full-service city. The City provides police, fire and emergency response, water treatment and distribution, wastewater treatment and collection, road maintenance and storm drainage, animal control, parks and recreation, and traffic and circulation planning. In addition, the City provides land use planning and building services.

Since its incorporation, the City's population has fluctuated, with both periods of rapid growth and declines in population. The City's incorporated area has doubled in size from 640 acres at the time of incorporation to its current 1,224 acres (exclusive of rights of way and similar appurtenant properties). The Sphere of Influence plan was last updated by LAFCo in 2008. The City is surrounded by unincorporated lands of Nevada County.

Municipal Service Reviews have been prepared under separate cover and found the existing public facilities and services adequate for serving the needs of Nevada City's population. However, it should be noted that the national recession of 2008 significantly impacted all local agencies, including Nevada City. The City managed the recession by taking a variety of cost saving measures, including staffing reductions, furloughs, and suspension of some programs. The City has been slowly restoring programs and service hours during the economic recovery, and the City's annual growth rate appears to have stabilized as the local, regional, and state economies rebound from the national recession.

Based on the determinations within the MSRs and those developed from this study, recommendations for the Sphere of Influence include the following:

- 1) Establish near- and long-term planning horizons, as depicted in Figure 5-2.
- 2) Omit lands from the sphere that are unlikely to require City services, including approximately 1,348 acres previously included in the 2023 sphere horizon.
- 3) Establish an "Area of Interest" comprised of the 1,348 acres previously included in the sphere's 2023 planning horizon. (Figure 5-2).

## SUMMARY OF SPHERE OF INFLUENCE DETERMINATIONS FOR THE CITY OF NEVADA CITY

The following determinations are recommended based on the previously prepared MSRs and updated information collected as part of this Sphere of Influence study. See Section 4.0 for the discussion and analysis for these determinations.

### SPHERE OF INFLUENCE DETERMINATIONS 4.1: PRESENT AND PLANNED LAND USE

- *The City's General Plan designates lands within the Sphere of Influence for various types of land uses, including residential, open space, agriculture/forestry, planned development and public.*
- *In general, the City's General Plan designations are compatible with the County's General Plan designations for lands within the Sphere of Influence.*
- *Approximately 69 percent of the parcels within the Sphere of Influence are developed.*
- *Several Planned Development areas that are located within the sphere of influence have the potential to add substantial growth to the City over the next 20 years or more.*
- *There is a sufficient inventory of vacant land within the City's boundaries to accommodate the dwelling units assigned to the City by the Regional Housing Need Allocation Plan for the Fifth Housing Element Update January 1, 2014 through June 30, 2019.*

### SPHERE OF INFLUENCE DETERMINATIONS 4.2: PRESENT AND PROBABLE NEED FOR PUBLIC SERVICES AND FACILITIES

#### GENERAL GOVERNMENT SERVICES

- *City annexations will result in increased demand for the City's general government services (including planning and community development, public safety and animal control, circulation planning, solid waste and storm drainage); funding to meet these service demands will generally come from property tax revenues and development impact fee revenues. For some services, grant funds, sales tax and transient and occupancy tax (TOT) will be available.*

#### WATER SERVICES

- *The entire Sphere of Influence is within Nevada Irrigation District's jurisdiction and service area. Many improved parcels already receive treated water service from the District, and would continue to receive service even if annexed by the City.*
- *Nevada Irrigation District provides treated water service within the Nevada City Sphere of Influence from the District's Elizabeth George Treatment Plant on Banner Mountain.*
- *According to the Nevada Irrigation District's 2016 Urban Water Management Plan, the District has adequate water supply through the year 2030, even during multiple-dry years.*

## **WASTEWATER SERVICES**

- *Sixty-nine percent of the parcels in the Sphere of Influence are already developed, the majority for residential use, and are unlikely to require wastewater service in the foreseeable future.*
- *Several areas designated for Planned Development may require public sewer service when developed.*
- *The City has extended sewer service outside its boundaries to several properties within the Sphere of Influence, including the County Juvenile Hall on Highway 49, the former County Health, Education and Welfare building on Willow Valley Road, and the CalTrans yard on Gold Flat Road.*
- *LAFCo's 2015 Western Nevada County Wastewater Municipal Services Review notes that the wastewater treatment plant has sufficient capacity to serve existing and new customers through 2025, and recommends the City conduct an analysis within the next ten years to consider the capacity of the WWTP's capacity to meet the needs of the service area in light of the City's annexation schedule, general plan projected buildout, and population projections.*

## **FIRE AND EMERGENCY MEDICAL SERVICES**

- *Fire protection and emergency responses services within the Sphere of Influence are provided by Nevada County Consolidated Fire District. Call data for 2016 indicates that approximately 50 calls for service were received from lands within the sphere of influence, and approximately 81 calls were received from lands within the Area of Interest.*
- *Development projects involving annexation to the City will be required to provide fire hydrants, adequate fire flows and access roads.*

## **PARKS AND RECREATION SERVICES**

- *The City views open space and recreational facilities as beneficial amenities for present and future residents of Nevada City and the community.*
- *The Sphere of Influence includes areas in City ownership that are intended for recreational and open space use, including Sugarloaf Mountain and the Indian Trails Subdivision trail system.*

## **ROADS AND STREET OPERATIONS**

- *The City has been able to expand its street improvement and maintenance program using Measure S funds. The tax measure will sunset in 2024 unless renewed by the voters.*
- *The City expects that large developments in the Sphere of Influence will be required to fund and construct all internal streets and improvements, as well as off improvements to existing city streets providing access to the projects.*

## **SPHERE OF INFLUENCE DETERMINATIONS 4.3: PRESENT CAPACITY OF PUBLIC FACILITIES AND ADEQUACY OF PUBLIC SERVICES**

### **GENERAL GOVERNMENT SERVICES**

- *The City provides a full array of General Government services (including planning and community development, public safety and animal control, circulation planning, solid waste and storm drainage) within its jurisdiction.*

### **WATER SERVICES**

- *The City supplies treated water to 1,350 connections, approximately 70 percent of the water connections within the City's boundaries. Nevada Irrigation District supplies treated water to 600 connections within the City.*
- *The City obtains raw water from Little Deer Creek, and supplements this source from the NID D.S. Canal.*
- *The City's water system has a peak capacity of 2.0 MGD and currently serves a maximum daily demand of 1.54 MGD. The City's treatment plant capacity is sufficient to continue service within the current service area for the next five years given growth expectations over that period. Significant infrastructure improvements of aging and undersized distribution lines are indicated, and the City has obtained a \$1.5 million grant for these purposes from the Department of Water Resources.*
- *Both providers (the City and the Nevada Irrigation District) are able to provide water service with a high degree of reliability.*
- *Nevada City supplements its fire flow capacity through interties with NID to ensure adequate fire flow throughout the City.*

### **WASTEWATER SERVICES**

- *The City wastewater service area includes all properties within its boundaries. The City serves 1,380 sewer connections, two thirds of which are associated with residential use and the remaining one third serving commercial/institutional uses.*
- *The City's wastewater treatment plant (WWTP) was comprehensively upgraded and expanded in 2006 and has a permitted average dry weather capacity of 0.69 MGD. Current average dry weather flow ranges from 0.38 to 0.47 MGD, approximately 68 percent of capacity.*
- *The WWTP is in compliance with Central Valley Regional Water Quality Control Board Discharge Permit No. R5-2012-0033.*

### **FIRE/EMS SERVICES**

- *The City provides fire and emergency medical (EMS) services to all properties within its jurisdiction.*
- *The Nevada City Fire Department operates under an automatic aid agreements with Grass Valley Fire Department and the Nevada County Consolidated Fire District, and also responds to calls for mutual aid from several other regional fire organizations.*
- *The City responded to the termination of its 11-year co-staffing agreement with Nevada County Consolidated Fire District by hiring additional firefighters to ensure 24/7*

*coverage at the City's Station 54. The City initially utilized reserve funds to finance the staffing expansion.*

- *A permanent funding source consisting of a 3/8 cent sales tax Special Tax was approved by the voters at the November 2016 election. Funds from the special tax will be used to finance both fire and police services.*

#### **PARKS & RECREATION SERVICES**

- *The City has adequate parks and recreation facilities to support its population and currently exceeds the national recreation and park standard of 5 acres per 1,000 people.*
- *The City provides operation and maintenance of its parks through its Public Works Department.*
- *The City views open space and recreational facilities as beneficial amenities for present and future residents of Nevada City and the community.*

#### **ROAD AND STREET OPERATIONS**

- *All roadway segments within the City and sphere operate at level of service (LOS) B or better, with the exception of State Highway 20 north of the City, according to the Nevada County Transportation Commission's Regional Transportation Plan.*
- *The City provides street maintenance and operations using a combination of funding sources, including gas tax and motor vehicle in-lieu fees. Significant circulation improvements have been provided through the Nevada County Transportation Commission.*
- *Use of Measure S funds has enabled the City to significantly expand its street improvement and maintenance program. The tax measure will sunset in 2024 unless renewed by the voters.*

#### **SPHERE OF INFLUENCE DETERMINATIONS 4.4: SOCIAL AND ECONOMIC COMMUNITIES OF INTEREST**

- *The lands included in the Sphere of Influence have substantive social and economic ties to the City of Nevada City.*
- *Several large unimproved properties in the vicinity of the City have significant development potential and have been included in the sphere of influence.*
- *It is recommended that LAFCo and the City adopt a policy encouraging consistency in service provision for developments occurring within the City's Sphere of Influence.*

#### **SPHERE OF INFLUENCE DETERMINATIONS 4.5: DISADVANTAGED UNINCORPORATED COMMUNITIES**

- *No areas adjacent to the City or within its Sphere of Influence have been identified as a Disadvantaged Unincorporated Community by LAFCo, the City or the County.*

## **1.0 INTRODUCTION**

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### **1.1 LOCAL AGENCY FORMATION COMMISSION**

Local Agency Formation Commissions (LAFCo) are independent public agencies created by the California Legislature in 1963; there is one in each county. They exercise quasi-legislative authority under Government Code Sections 56000-57550 (the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 or “CKH”). This law charges LAFCos with responsibility for:

- Encouraging orderly growth and development,
- Encouraging the logical formation and determination of local agency boundaries,
- Ensuring that affected populations receive adequate, efficient and effective governmental services, and
- Preventing premature conversion of open space and prime agricultural land.

LAFCo’s principal activities include regulating boundary changes of local agencies (cities and special districts) through annexations and detachments; approving or disapproving city incorporations; and forming, consolidating, or dissolving special districts.

### **1.2 NEVADA LAFCO POLICIES AND CRITERIA FOR SPHERE OF INFLUENCE PLANS**

#### **LAFCO LAW**

Under CKH (Section 56425), LAFCos are required to “develop and determine the sphere of influence of each local governmental agency within the county and enact policies designed to promote logical and orderly development of areas within the sphere.” A long-range planning tool, a sphere of influence (sphere) is defined by Government Code Section 56076 as “...a plan for the probable physical boundary and service area of a local agency or municipality...”

According to CKH, LAFCos are required to review and update spheres of influence as necessary, but at least once every five years.

When determining the sphere of influence, the Commission shall consider and prepare a written statement of its determinations with respect to each of the following:

- (1) The present and planned land uses in the area, including agricultural and open-space lands.
- (2) The present and probable need for public facilities and services in the area.
- (3) The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.
- (4) The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.
- (5) For an update of a sphere of influence of a city or special district that provides public facilities or services related to sewers, municipal and industrial water, or structural fire protection, that occurs pursuant to subdivision (g) on or after July 1, 2012, the present and probable need for those public facilities and services of any disadvantaged unincorporated communities within the existing sphere of influence.

## **NEVADA LAFCO POLICIES**

Section III of Nevada LAFCo's Policies (as amended September 17, 2015) sets forth the general policies and specific requirements applicable to the Sphere of Influence Plans for all government agencies within LAFCo's jurisdiction.

1. A Sphere of Influence Plan must include a sphere map and a phased plan for annexation of the depicted territory defining the probable boundary of the agency's service area 20 years hence (the long-term horizon) and identifying a near-term development horizon defining the agency's logical boundary for lands likely to be annexed prior to the next sphere review or update (typically within five years).
2. A Sphere Plan must provide documentation to support the Commission's determinations regarding the factors stated in Government Code §56425(e):
  - a) *The present and planned land use in the area, including agricultural and open-space lands.* Such documentation might include additional maps and explanatory text detailing the present land uses in the area (e.g., improved and unimproved parcels; actual commercial, industrial, and residential uses; agricultural and open space lands) and the proposed future land uses in the area.

- b) *The present and probable need for public facilities and services in the area.* The discussion should include consideration of the need for all types of major facilities and services, not just those provided by the agency. Data on existing population and projected population at build-out of the near- and long-term spheres of the agency should be included.
- c) *The present capacity of public facilities and adequacy of public services provided by the agency.*
- d) *Any social or economic communities of interest in the area that the Commission determines are relevant to the agency.*
- e) *For an update of a sphere of influence of a city or special district that provides public facilities or services related to sewers, municipal and industrial water, or structural fire protection, that occurs pursuant to subdivision (g) on or after July 1, 2012, the present and probable need for those public facilities and services of any disadvantaged unincorporated communities within the existing sphere of influence.*

### 3. Special Designations:

- *Areas of Interest:* In some cases, the Commission may designate an area beyond the sphere of influence as an “Area of Interest.” This designation is appropriate when land use decisions or other actions of one agency have potential to impact directly or indirectly on the subject agency. For example, approval of a housing project developed to urban densities outside the city limits of a city and its sphere of influence may subsequently require the city to extend sewer services to the area in response to sanitary system failures.
- *Zero and Minus Spheres:* If the Commission has determined that the public service functions of an agency are either non-existent, no longer needed, or should be reallocated to some other agency of government, it may adopt a “zero” sphere of influence (encompassing no territory) for the agency, thus indicating that the agency should ultimately be dissolved. The Commission may initiate dissolution of an agency when it deems such action appropriate.

The Commission may adopt a “minus” sphere (excluding territory currently within that agency’s boundaries) when it has determined that territory within the agency’s boundaries is not in need of the agency’s services or when the agency has no feasible plans to provide efficient and adequate service to the territory in question.

Generally speaking, the necessary documentation is provided in one or more Municipal Service Reviews (MSRs) incorporated into the Sphere Plan.

### **1.3 MUNICIPAL SERVICE REVIEWS**

Sphere of Influence Plans must be based upon thorough analyses of how essential services are provided in defined geographical areas. This need is satisfied by Municipal Service Reviews (MSRs), which identify and evaluate public services provided throughout the subject agency.

The legislative authority for conducting MSRs is provided in Section 56430 of the CKH Act, which states: “In order to prepare and to update spheres of influence in accordance with Section 56425, the commission shall conduct a service review of the municipal services provided in the county or other appropriate area designated by the commission.”

Each Municipal Service Review includes a written statement of the Commission’s determinations with respect to the following:

1. Growth and population projections for the affected area.
2. The location and characteristics of any disadvantaged unincorporated communities within or contiguous to the sphere of influence.
3. Present and planned capacity of public facilities, adequacy of public services, and infrastructure needs or deficiencies, including needs or deficiencies related to sewers, municipal and industrial water, and structural fire protection in any disadvantaged unincorporated communities within or contiguous to the sphere of influence.
4. Financial ability of agencies to provide services.
5. Status of, and opportunities for, shared facilities.
6. Accountability for community service needs, including governmental structure and operational efficiencies.
7. Any other matter related to effective or efficient service delivery, as required by commission policy.

The Municipal Service Reviews prepared by Nevada LAFCo that are relevant to the Nevada City sphere of influence update are listed below on Table 1-1. Note that in each case, additional information from the City has been collected and various planning documents have been reviewed, including the City and County General Plans, land-use zoning maps, and service master plans in order to obtain the most current and accurate information available. Interviews with City staff were also conducted to gain further insight into City issues.

**TABLE 1-1. MUNICIPAL SERVICE REVIEWS RELEVANT TO THE CITY OF NEVADA CITY**

<b>MUNICIPAL SERVICE REVIEW</b>	<b>YEAR ADOPTED</b>
Western Nevada County Water Service Providers	2015
West County Wastewater Service Providers	2015
West County General Services (planning and community development, transportation and circulation planning, solid waste, storm drainage planning)	2004
Countywide Fire and Emergency Services	2005
Countywide Recreation and Parks Services	2006
Western Nevada County Road and Street Operations and Planning	2005

#### **1.4 SPHERE OF INFLUENCE UPDATE PROCESS**

This document addresses the sphere of influence update for the City of Nevada City. Nevada LAFCo adopted the original sphere of influence plan in 1983 (Resolution 83-04). In 2008, LAFCo adopted an update to the sphere of influence plan (Resolution 08-15), however, the update was informational and resulted in no changes to the sphere of influence boundary. The current city boundary includes 1224 acres (exclusive of rights of way, etc.). Since 1983, nearly 460 acres have been annexed to the City in 22 separate proposals.

Since 1983, there have been a number of important changes that impact the preparation of sphere of influence reviews and updates. These include updates to LAFCo law and to Commission policy, as well as changes to local government financial circumstances and land use policies.

1. Definition of Sphere of Influence: In 1983, LAFCo law defined this term as "...the ultimate boundary and service area of a local government agency." The definition now reads "...a plan for the probable boundary and service area of a local government agency."
2. Requirement to Periodically Review and Update Spheres of Influence: LAFCo is now required to review and update each agency's sphere of influence plan every five years., as a result of the last major update of the Local Government Reorganization Act, which took place in 2000 with the adoption of Assembly Bill 2838 (Hertzberg).
3. Requirement to Prepare Municipal Service Reviews: Before taking action on a sphere of influence, LAFCo is now required to review municipal services provided by each agency, including projections for growth and development; present and planned capacity of

facilities and adequacy of services, including infrastructure needs and deficiencies, the agency's financial capability to provide services and the service relationships between providers in the region.

4. Commission Sphere Policies: The Commission's sphere of influence policies now require a sphere plan to include a phased twenty-year plan for annexation of the lands within the sphere, and also state that LAFCo will not include lands in an agency's sphere that are unlikely to require the services provided by the agency, or lands which cannot feasibly be served by the agency. Commission policy now also provides for the designation of "Areas of Interest," which are areas beyond an agency's sphere of influence where land use and other decisions may impact the agency.
5. General Plans: Since 1994, the County's General Plan has included policies that respect City land use designations within spheres of influence and that foster coordination between the County and the City with respect to annexation and development. Following LAFCo's 2008 update of the City's sphere, City and County staff worked together to review land use designations of each parcel within the City's sphere and to identify parcels where the General Plan designations were not compatible. This exercise identified five parcels with potentially incompatible designations.
6. Increasing Cost of Providing Municipal Services: The cost of providing municipal services, especially fire and police, have increased dramatically since 1983. Annexation of lands located considerable distances from current City boundaries would likely impact the City's fire and police service costs.
7. Development and Buildout of Sphere Lands: Many of the parcels included in the 1983 sphere of influence are now developed for residential use, utilizing private septic systems and wells (or receive treated water for Nevada Irrigation District) , and do not require City services.

There are numerous factors for the Commission to consider in reviewing an SOI, including the five factors required by Section 56425(e):

- Present and planned land uses in the area, including agricultural and open-space lands.
- Present and probable need for public facilities and services in the area.
- Present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.

- Any social or economic communities of interest in the area, if determined by the commission to be relevant.
- Sphere updates for cities that provide public facilities or services related to sewers, municipal and industrial water or structural fire protection must address the present and probable need for those facilities and services of any disadvantaged unincorporated communities within the existing sphere of influence.

The Commission’s written determinations on these factors are provided above (See Section 1.2). Determinations are informed by the Municipal Service Reviews listed above; in addition the City has been in communication with LAFCo to provide information regarding how and where its services are deployed.

### **1.5 DISADVANTAGED UNINCORPORATED COMMUNITIES**

In 2012, Senate Bill 244 (Wolk), pertaining to Disadvantaged Unincorporated Communities (DUCs) went into effect. The legislation was designed to promote infrastructure improvement investments in these areas. It established new requirements for LAFCOs and for land use agencies (cities and counties), requiring them to identify Disadvantaged Unincorporated Communities and to consider the provision of water, wastewater and structural fire protection services to these areas. It also promotes annexation of these neighborhoods to cities by requiring, under most circumstances, that a city annexation proposal involving more than ten acres to include any adjacent area that has been identified as a DUC.

The term “Disadvantaged Unincorporated Community” was broadly defined by the legislation as inhabited territory, as defined by § 56046, or as determined by commission policy, that constitutes all or a portion of a “disadvantaged community” as defined by § 79505.5 of the Water Code. The cited section of the Water Code defines “disadvantaged community” as one in which the median annual household income (MHI) is less than 80% of the statewide average. In 2010, the statewide annual MHI was \$60,883; 80% of that is \$48,706). As indicated by the emphasized text, LAFCOs were provided a great deal of discretion in developing standards for identifying DUCs.

Nevada LAFCo's policies include defining characteristics of Disadvantaged Unincorporated Communities, recognizing any that have been so identified by the County or a city, as set forth in Section II (P) (3) of the Commission's Policies:

Definition of Disadvantaged Unincorporated Community: A developed area that has been identified as a DUC by LAFCo, the County or applicable city, or one that meets all the following standards:

- a) Substantially developed with primarily residential uses
- b) Contains at least 25 parcels in close proximity to each other that do not exceed 1.5 acres in size
- c) Does not have reliable public water, sewer or structural fire protection service available
- d) Contains at least 12 registered voters
- e) Has a median household income level of 80% or less than the statewide median household income

In addition, Nevada LAFCo has established a process for residents or property owners to request that LAFCo designate their community as a DUC.

## **1.6 CALIFORNIA ENVIRONMENTAL QUALITY ACT**

Sphere of Influence Plans are subject to Environmental Review under the California Environmental Quality Act (CEQA). In general, an agency's sphere plan merely defines the present and anticipated physical boundary of a local agency or jurisdiction and the present and probable need for services within that area. They do not convey to property within the sphere boundary, or to its owners, any more development rights than already exist.

## **2.0 BACKGROUND**

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### **2.1 DESCRIPTION AND EXISTING SETTING**

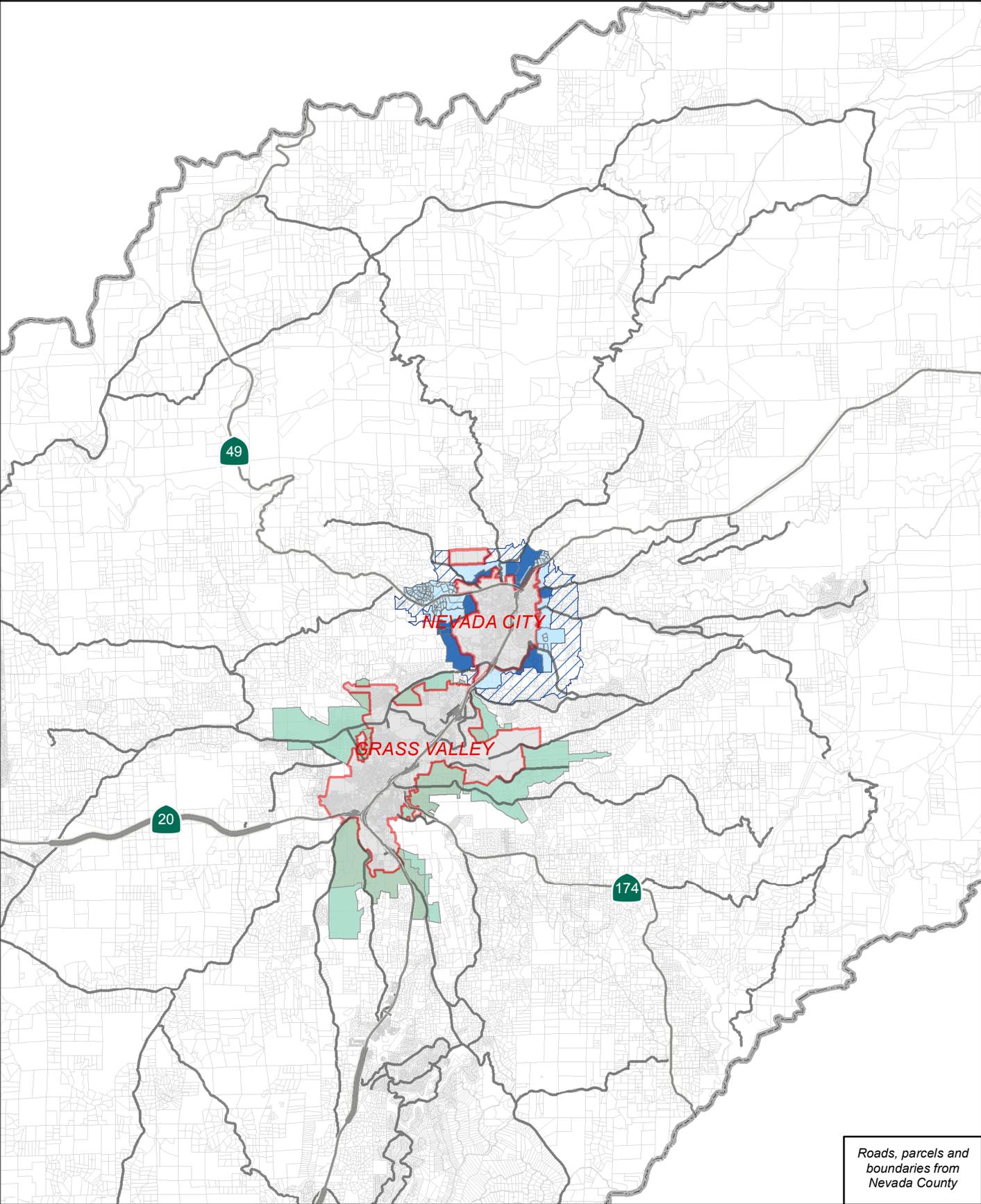
The City of Nevada City is located in the Sierra Nevada foothills, approximately 60 miles northeast of Sacramento, in central western Nevada County (Figure 2-1). The City lies at an average elevation of 2,470 feet above sea level, straddling a portion of the stretch of California State Highway 49 where it overlaps with Highway 20, also known as the Golden Center Freeway. The original townsite was settled during the California Gold Rush in 1849 on the banks of Deer Creek. In 1856, the City was officially incorporated. The City is the seat of county government for Nevada County.

Originally, gold mining and timber provided the basis of the City's economy, however, in more recent times, the City's focus on historical preservation has established an environment where tourism, technology and arts and entertainment have become vital sectors of the regional economy.

Nevada City is a general law city, governed by a five-member City Council, which in turn appoints a City Manager. The City provides its own police and fire departments, water, wastewater treatment plant and infrastructure, animal control, parks and recreation, and traffic and circulation planning. The City's Planning Department provides land use planning and issues building permits.

Figure 2.1

# Western Nevada County Incorporated Cities



Roads, parcels and boundaries from Nevada County

## 2.2 SPHERE OF INFLUENCE

The City of Nevada City contains approximately 1,224 acres (exclusive of rights of way, etc.). The City's sphere of influence, as determined by LAFCo, encompasses approximately 1,482 acres (Figure 2-2).

The sphere is presently partitioned into two planning horizons (near-term and-long term, consistent with the Commission's sphere of influence policies. The horizons reflect an anticipated schedule for probable annexation (Table 2-1). The current breakdown of planning horizons is as follows:

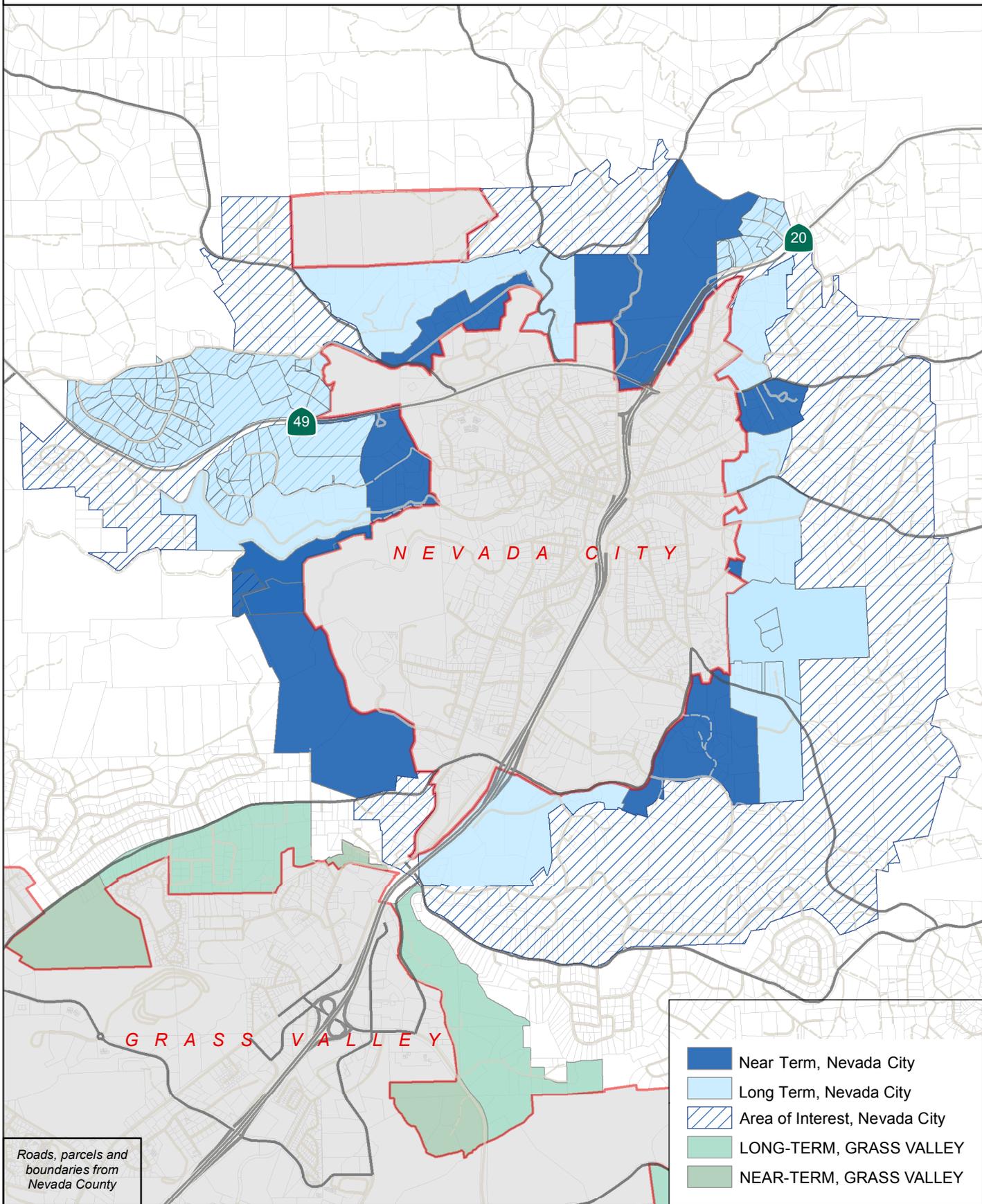
**TABLE 2-1. SPHERE HORIZONS FOR THE CITY OF NEVADA CITY**

<b>SPHERE HORIZON</b>	<b>TOTAL ACREAGE</b>	<b>NUMBER OF DEVELOPED PARCELS</b>	<b>NUMBER OF UNDEVELOPED PARCELS</b>
Near term	216	80	35
Long term	1266	194	89

Note: exempt parcels in government or private ownership not included in parcel counts

Figure 2.2

# City of Nevada City Sphere of Influence & Planning Area



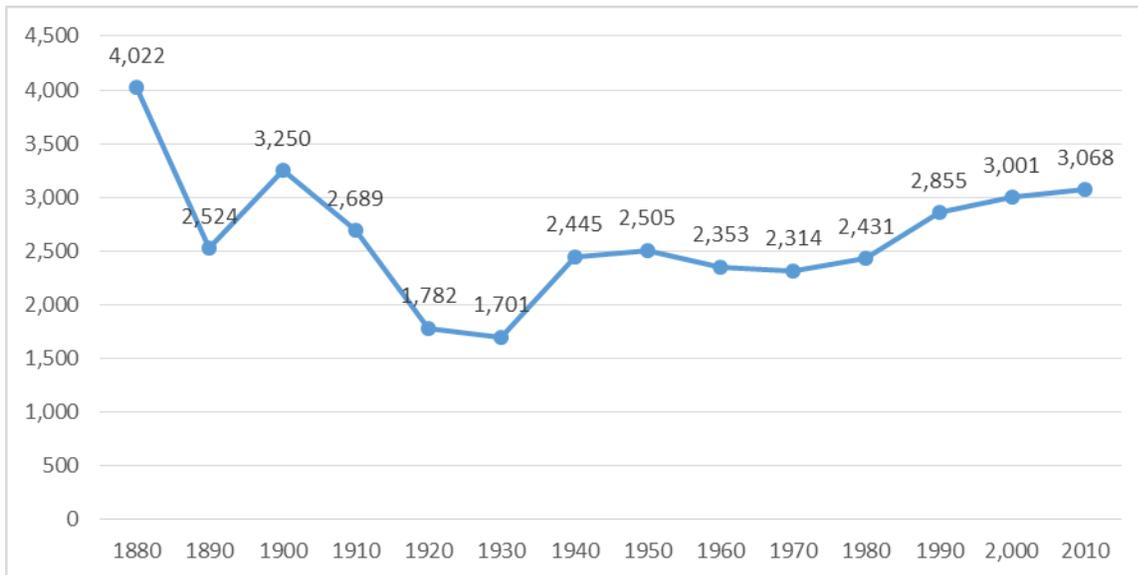
In 2008, as discussed above, the Commission’s sphere of influence policies were amended to change the identification of four development horizons from five-year increments, 20 years into the future, to defining the planning horizons as near-term (five years) and long-term (20 years). Recommendations for the newly delineated horizons and updated sphere of influence are presented in Section 5.0 of this document.

Annexations to Nevada City are subject to several tax apportionment agreements: the City has agreements with the County (1981), Nevada Irrigation District and the County (2009) and the Nevada County Consolidated Fire District (2009).

### 2.3 GROWTH AND POPULATION

City population has fluctuated over the years, with the population falling from over 4,000 in 1880 to 2,524 in 1890. From 1900 to 1930, the City’s population (Figure 2-3) fell from 3,250 to 2,855, likely the result of regional economic shifts. A period of moderate growth from 1930 to 1950 was followed by a dip in growth rates between 1950 and 1970.

**FIGURE 2-3. HISTORIC POPULATION GROWTH WITHIN NEVADA CITY, 1880 -2010**



Source: State of California, Department of Finance. *Historical U.S. Census Populations of Counties and Incorporated Cities in California, 1850–2010*.

**TABLE 2-2. CITY GROWTH RATES BY DECADE, 1940–2010**

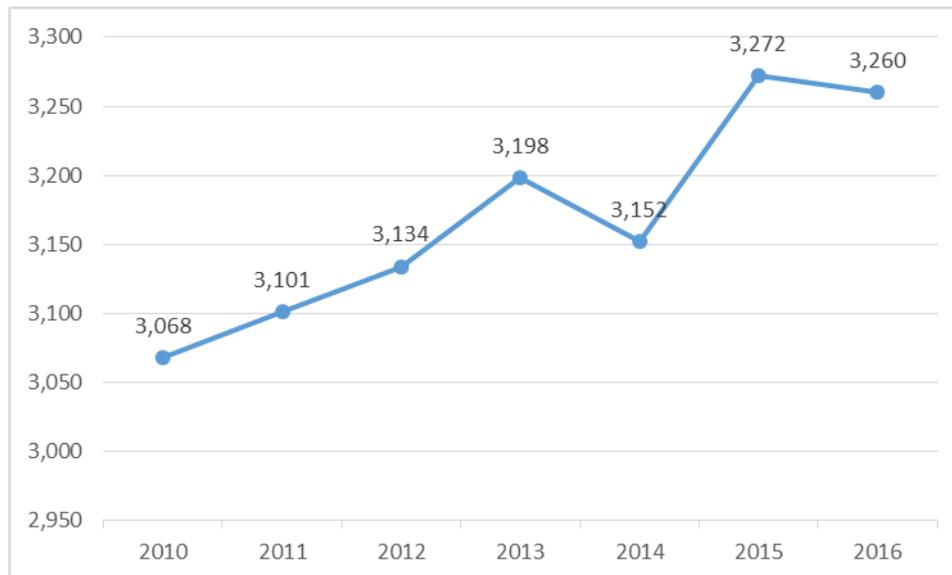
Decade	Change in Population	Growth Rate	Average annual Growth Rate	Cumulative Population
1930-1940	744	44%	4.4%	2,445
1940-1950	60	2.45%	0.2%	2,505
1950-1960	-152	-6.07%	-0.6%	2,353
1960-1970	-39	-1.66%	-0.2%	2,314
1970-1980	117	5.06%	0.5%	2,431
1980-1990	424	17.44%	1.7%	2,855
1990-2000	146	5.11%	0.5%	3,001
2000-2010	67	2.23%	0.2%	3,068

Source: State of California, Department of Finance. Historical Census Populations of Counties & Cities 1850-2010

Following a decade of improving annual growth rates, the decade from 1980 to 1990 showed average annual rates of 1.7 percent (Table 2-2 ). In the final decade of the 20<sup>th</sup> century and first decade of the 21<sup>st</sup> century, the growth rate has declined somewhat but remains positive.

Since 2010, the City’s growth rate has fluctuated somewhat in the wake of the national economic recession that began in 2008. (Figure 2-4).

**FIGURE 2-4. POPULATION GROWTH WITHIN NEVADA CITY, 2011–2016**



Source: State of California, Department of Finance. Population and Housing Estimates for Cities, 2011-2016 with 2010 Benchmark.

### 2.3.1 GROWTH RATES AND PROJECTIONS

Growth rates used in this study are consistent with the estimates used in the recently adopted Nevada City Housing Element (2014-2019): growth within the City of 0.26 percent, and 0.52 percent in the unincorporated area. Population projections were calculated from estimates established by the State Department of Finance.

Population projections provided in the Nevada City 2014-2019 Housing Element Update estimated that the City could have 3,124 residents by 2019, representing an annual growth rate of approximately 0.2 percent (note that the California Department of Finance 2016 population estimate for Nevada City is 3,260). In 1986, when the City’s General Plan was prepared, it was anticipated that the City would have a growth rate of approximately 2.86 percent, however, actual annual growth rates have been far more modest, between 0.5 and 0.2 percent (Table 2-2 ).

When evaluating the growth and population of Nevada City it is important to consider the regional growth rate as well, specifically of unincorporated Nevada County, the City of Grass Valley and the Town of Truckee. From 2010 to 2016, the countywide population declined by 0.68 percent. Positive overall growth figures for Nevada City and Grass Valley contrast to a decrease in population for the Town of Truckee and for the unincorporated portion of the County. (Table 2-3).

**TABLE 2-3. CUMULATIVE REGIONAL POPULATION GROWTH 2010–2016**

	2010	2011	2012	2013	2014	2015	2016
City of Nevada City	3,068	3,101	3,134	3,198	3,152	3,272	3,260
City of Grass Valley	12,860	12,807	12,832	12,944	12,953	12,967	12,955
Town of Truckee	16,180	16,056	15,788	15,387	15,335	15,345	15,370
Unincorporated County	66,656	66,445	66,315	66,234	66,326	66,453	66,510

*Source: State of California, Department of Finance. Population Estimates for Cities, Counties and State 2011–2016 with 2010 Benchmark.*

Although regional growth rates have been flat or in decline since 2010, it is anticipated that annual growth rates will stabilize and begin to rise as local, regional and state economies continue to rebound from the national recession. For the purpose of calculating population

projections, it is assumed that the County's growth rate will average one percent annually, with Nevada City's growth projected at a somewhat lower rate.