

Stormwater Infrastructure

Maintenance, Repair and Replacement

Stormwater Infrastructure - Maintenance, Repair and Replacement

Goal Educate Council Members on the extent of City responsibility to maintain, repair, remove and replace stormwater infrastructure within City Limits.

What is Stormwater Infrastructure

Easements & Legal Responsibility

Peer City/CoF Comparison

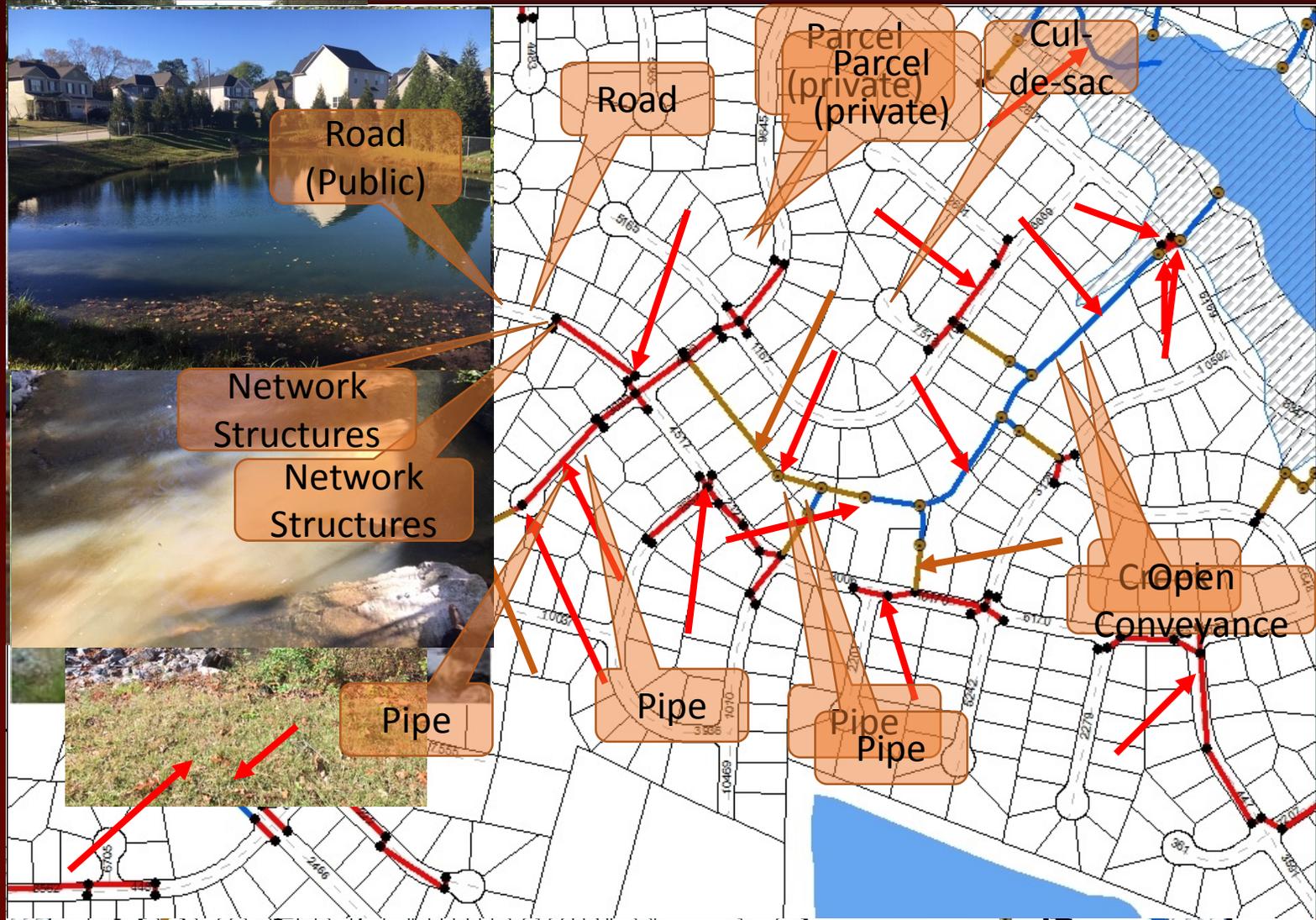
Potential Liability

Options for Private Properties

Council Direction

What is Stormwater Infrastructure

What is Stormwater Infrastructure



- ### Assets
- Stormwater Pipe network
 - In the road (Public RoW)- Red
 - Off RoW - Brown
 - Stormwater Network Structures
 - Catchbasins
 - Inlets
 - Headwalls
 - Open Conveyance
 - Roadside Swale
 - Backyard creek or ditch
 - Stream
 - Retention Basin (SCM)

What stormwater or drainage infrastructure does the City have legal responsibility to maintain and/or repair?

Helpful Distinction:

**PUBLIC
RIGHT-OF-
WAY**

Commonly referred to as a “city street”

Triggers a **DUTY** under STATE LAW

**EASEMENT
(on private
property)**

No duty triggered

Grants **PERMISSION** for a purpose

CITY'S MAINTENANCE DUTY UNDER STATE LAW FOR **PUBLIC RIGHTS-OF-WAY or STREETS**

NCGS 160A -
296(a)(1)

“A city shall have general authority and control over **all public streets**, sidewalks, alleys, bridges, and **other ways of public passage** within its corporate limits ... [and has] [t]he **duty** to keep the public streets, sidewalks, alleys, and bridges in proper repair.”

CITY'S MAINTENANCE DUTY UNDER STATE LAW FOR **PUBLIC RIGHTS-OF-WAY or STREETS**

When does a City assume the duty or **OBLIGATION** to maintain streets (which includes drainage)?

When streets are dedicated for public use, and

The City accepts the streets for maintenance either **EXPLICITLY OR IMPLICITLY**

CITY'S MAINTENANCE DUTY UNDER STATE LAW FOR **PUBLIC RIGHTS-OF-WAY or STREETS**

More on the City's IMPLICIT acceptance of rights-of-way for maintenance (including drainage). Cases have found municipal control when a city has:

Maintained or repaired drainage, sewer lines and other utilities in a private right-of-way or easement;

**PUBLIC
RIGHT-
OF-WAY**

Commonly referred to as a "city street"

Triggers a **DUTY** under STATE LAW

**EASEMENT
(on private
property)**

Grants PERMISSION for a purpose

No duty triggered

BUT a legal obligation to maintain could be legally triggered by the city's implicit acceptance for maintenance.

Peer City/CoF Comparison

What do other Municipalities in NC do

Durham (267,743,
108 mi²)

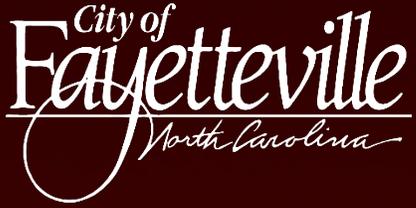
- Drainage System Ownership and Maintenance Responsibility: The owner of the property where a drainage system is located is legally responsible for its maintenance. This includes all features of the drainage system such as ditches, stream banks, and even buried pipes. **The city only owns and maintains the stormwater drainage system within the public right-of-way and other property owned by the city.**

Winston-Salem (244,605,
133 mi²)

- The mission of the Stormwater Management Program is to restore, protect, and preserve the surface waters within the City of Winston-Salem and to **maintain, repair, map, and evaluate drainage systems within the street right-of-ways.**

Cary (165,904,
59 mi²)

- Storm drainage features such as streams, swales, pipes and culverts on a homeowner's property are the responsibility of the home owner as stated in the Certificate of Ownership and Dedication, required on all subdivision plats recorded in the Town of Cary. **The Town only maintains drainage in the right-of-way.**



What do other Municipalities in NC do

City	Population	Area (Sq. Mile)	Public RoW	off RoW
Raleigh	464,758	145	✓	x
Durham	267,743	108	✓	x
Winston-Salem	244,605	133	✓	x
Cary	165,904	59	✓	x
Wilmington	119,045	41	✓	x
Highpoint	111,513	55	✓	x
Asheville	91,902	45	✓	x
Chapel Hill	59,862	19	✓	x

Others vs City of Fayetteville

CoF Article 3, Section 23

Prior to 10-27-2008

There was no ordinance for stormwater systems in the city. This was communicated via easement.

Stormwater management facilities shall mean those structures and facilities that are designed for the collection, conveyance, storage, treatment and disposal of stormwater runoff into and through the drainage system. This includes all stormwater quantity and quality facilities.

for

Post 10-27-2008

All stormwater management facilities shall be privately owned and maintained unless the city accepts the facility for city ownership and maintenance.

The City shall accept functional maintenance responsibility of structural stormwater management facilities that are installed pursuant to this article following a warranty period provided the stormwater management facility only serves a single-family detached residential development or townhomes all of which have public street frontage.

Summary - What does the City have to do?

Responsibility to Maintain

Remove and Replace

Except ~ 42 Stormwater Management Facilities from Single Family Residential Development's post 2008 ordinance

RoW (Non-DOT) ✓

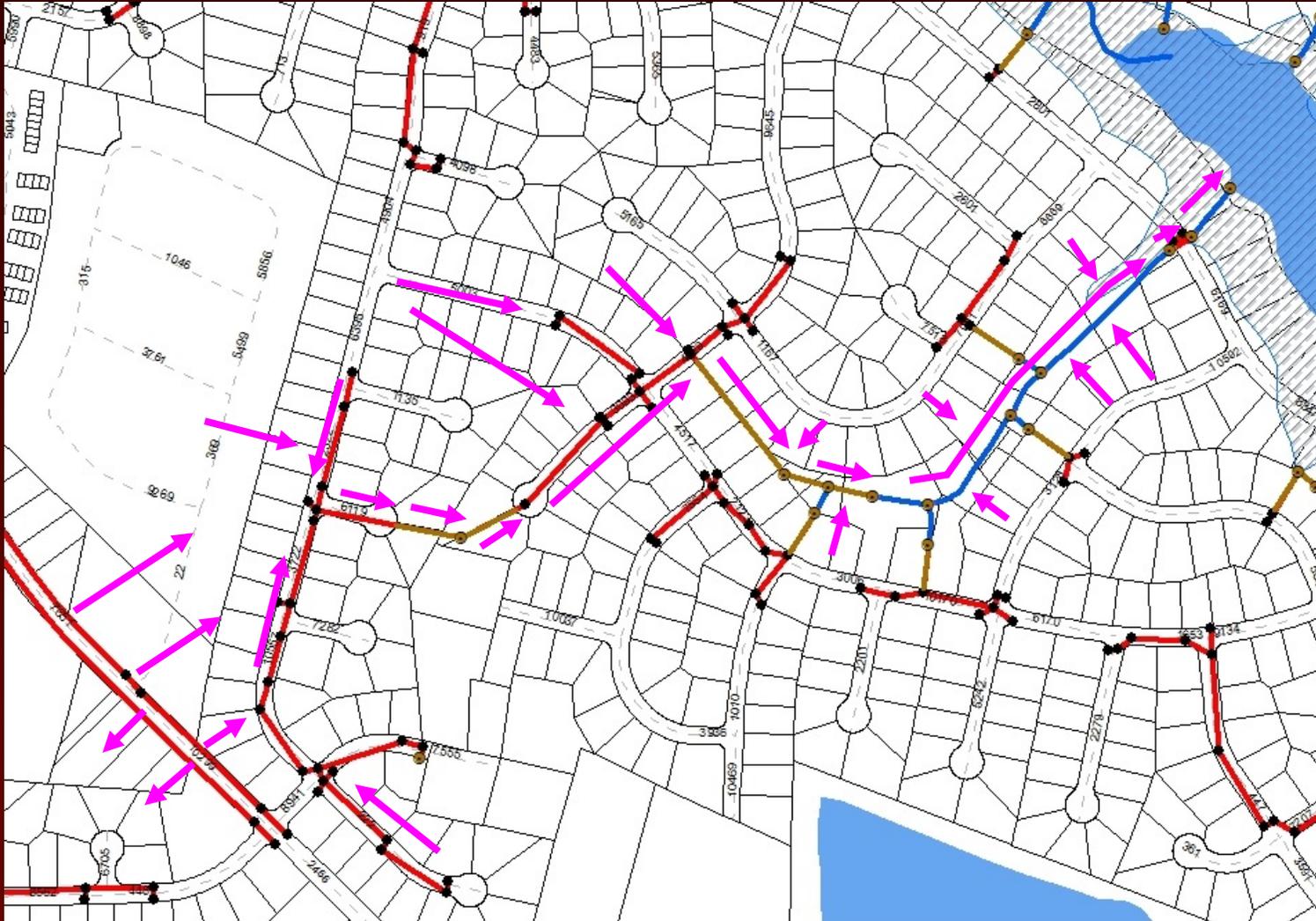
743 Miles

- 19 Bridges
- 6 CoF Dams
- ~ 243 mi. Pipes-Culverts
- ~ 20 mi. of Open Conveyance
- ~17401 Network Structures
- 743 mi. - Street Sweeping
- <1 mi. Streams

Off RoW – Private ✗

- ~13 Bridges
- ~45 Dams, 4 PWC
- ~ 180 mi. Pipes-Culverts
- ~ 106 mi. Open Conveyance
- ~9354 Network Structures
- 0 mi. Street Sweeping
- ~180 mi. Streams

What is Stormwater Infrastructure: Public RoW versus Off RoW - Stormwater Flow



Stormwater Flow Path

- Stormwater flows through the storm sewer systems, ditches, and channels located in the:
 - public RoW
 - on a dedicated private storm sewer easements
 - private property without easement
- Majority of the runoff is off private property

Legal Responsibility versus Practice

Off Row - Removed and cleared debris in ditches, removed sediment and blockages, fixed sinkholes and inlet structures, removed trees in creeks, provided grading and realignments to prevent yard flooding

RoW ✓

Off RoW

Inconsistent in applying administration of core responsibilities

Staff have offered and applied various interpretations of easement and plat language in an attempt to be customer focused

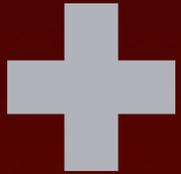
Conflicting Information

Not been focused and/or unable to provide services uniformly and fairly within the bounds of a vetted process

What is our Potential Liability

Potential Liability – Asset Management Approach

RoW ✓



off
RoW ✗

Asset management is a strategic approach to maintaining and sustaining infrastructure in order to meet the needs of the community at the lowest overall life cycle cost.

Calculate **Financial Liability** for Stormwater Infrastructure in CoF

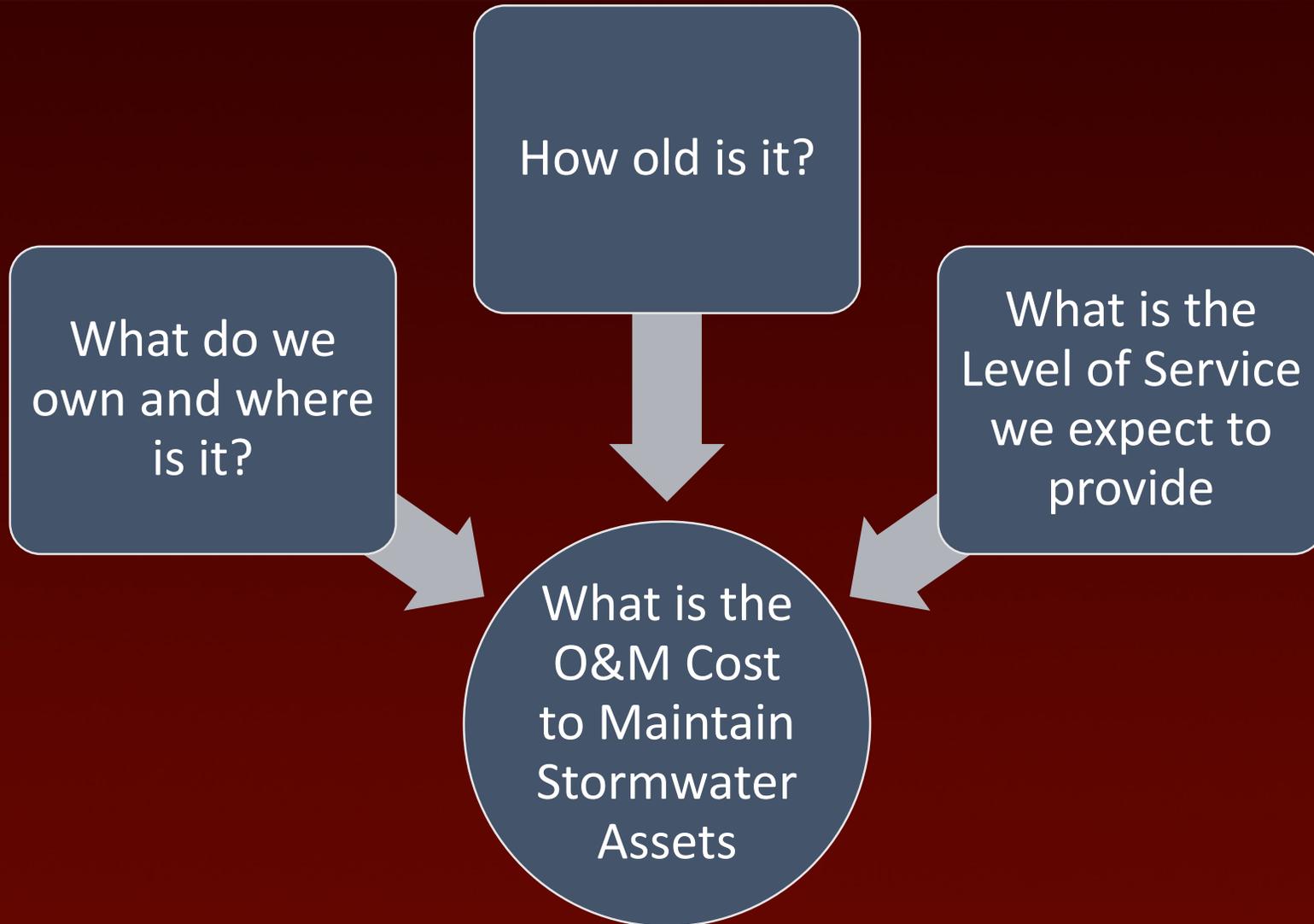
- Operations and Maintenance Cost (~100 yrs.)
- Replacement Cost (~100 yrs.)

This approach helps communities know how and where to prioritize limited funds in order to achieve the greatest benefit.

Asset management is a strategic approach to maintaining and sustaining infrastructure in order to meet the needs of the community at the lowest overall life cycle cost.

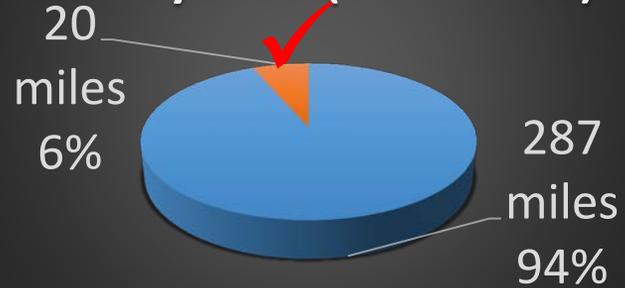
This approach helps communities know how and where to prioritize limited funds in order to achieve the greatest benefit.

What is the O&M Cost to Maintain Stormwater Assets



Potential Liability - What do we own and Where is it?

Streams and Open Conveyance (307 Miles)



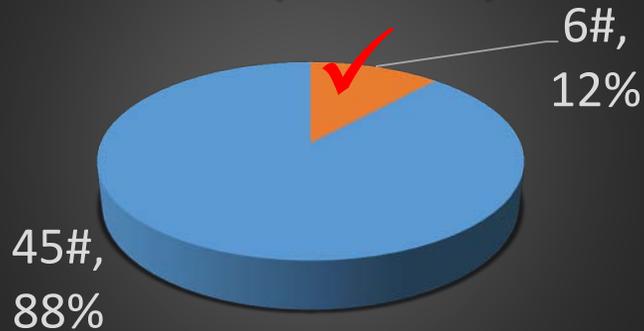
Stormwater Network Structures 26755 (#)



Stormwater Pipes and Culverts (423 Miles)



Dams (Total 51)

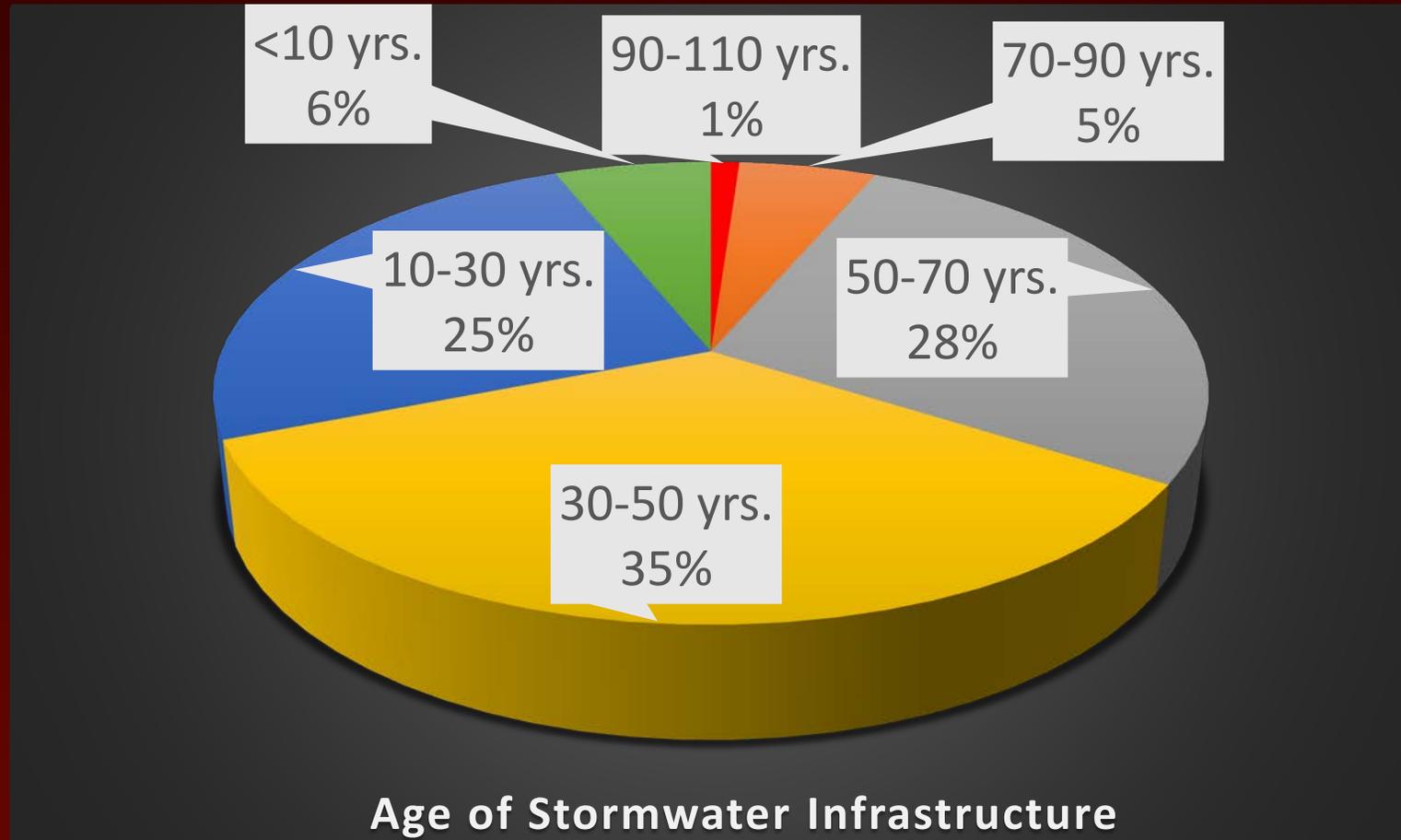


Bridges (Total 32)



■ Off RoW - Private
■ Non DoT Public RoW

O&M – What is the age of Infrastructure



Age ↑
O&M ↑
Replace →

O&M Cost based on Level of Service

Level of Service is defined as the service quality for a given activity. Levels of Service are often documented as a commitment to carry out a given action or actions within a specified time frame in response to an event or asset condition data.

Minor Rehab. – Pipe/Structures – 20 Yr. Cycle

Minor Rehab. Dams – 10 Yr. Cycle

Minor Rehab. Bridge Structures – 10 Yr. Cycle

Street Sweeping –

OF Streets – 6 Cycles/yr.

RoW ✓ /off-RoW

SCM (2008 Ordinance) – 1 Yr. Cycle

Drainage Ditch/Shoulder Maintenance – 5 Yr. Cycle

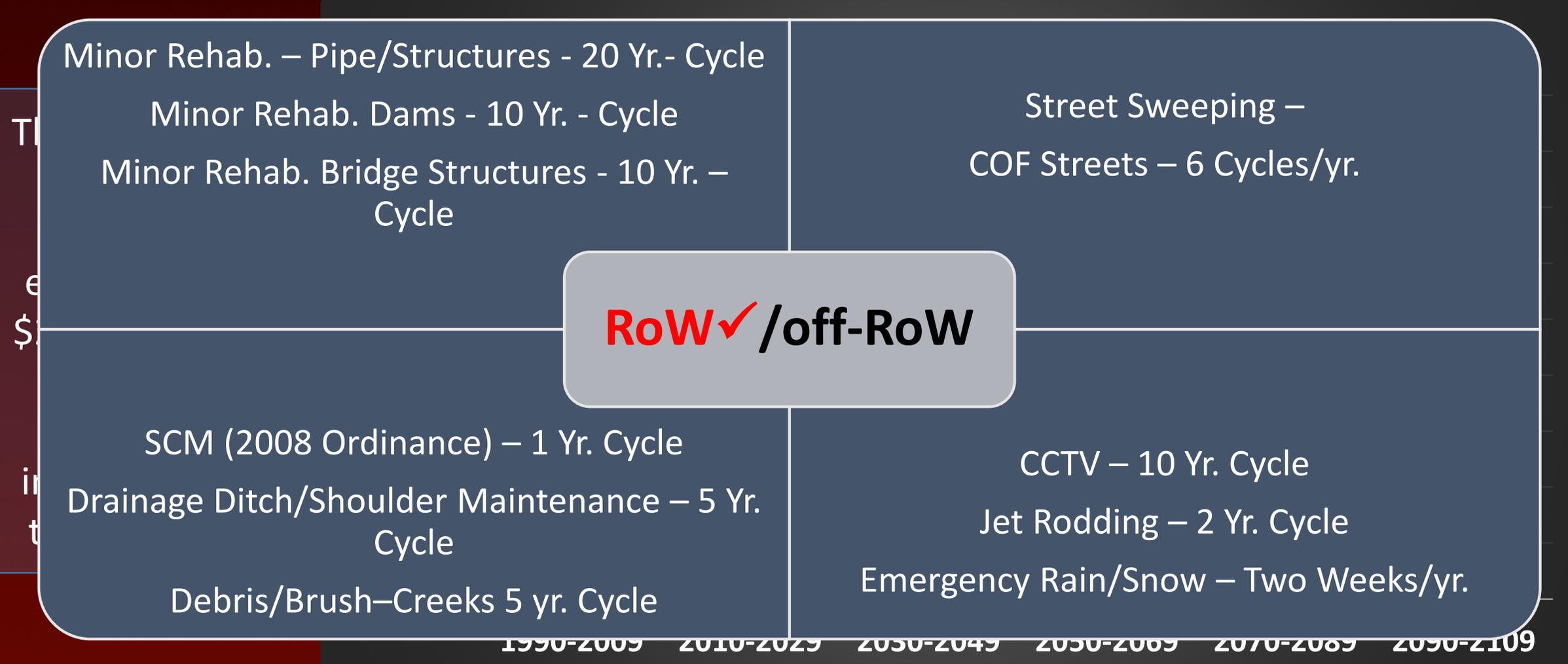
Debris/Brush–Creeks 5 yr. Cycle

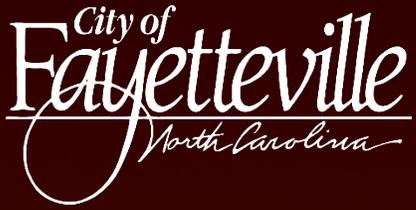
CCTV – 10 Yr. Cycle

Jet Rodding – 2 Yr. Cycle

Emergency Rain/Snow – Two Weeks/yr.

Potential Liability – Public RoW O&M Costs

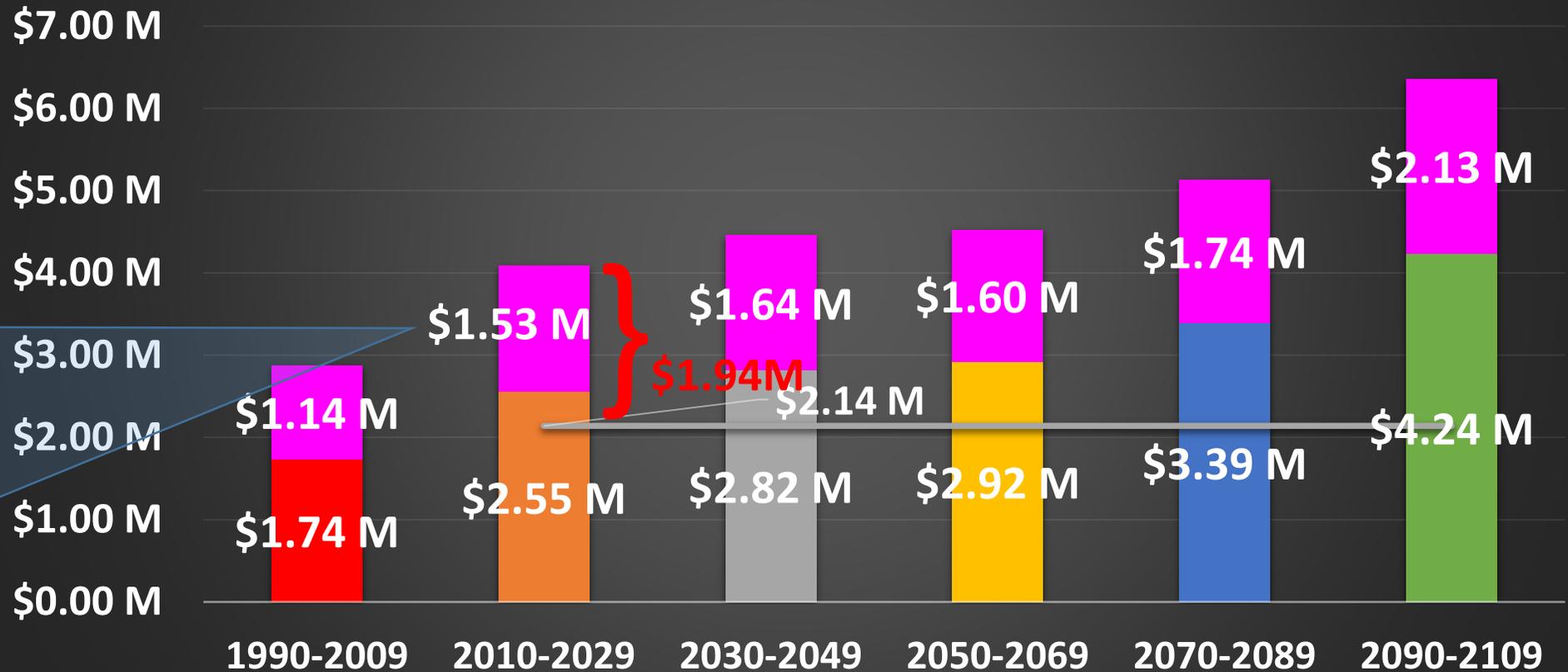




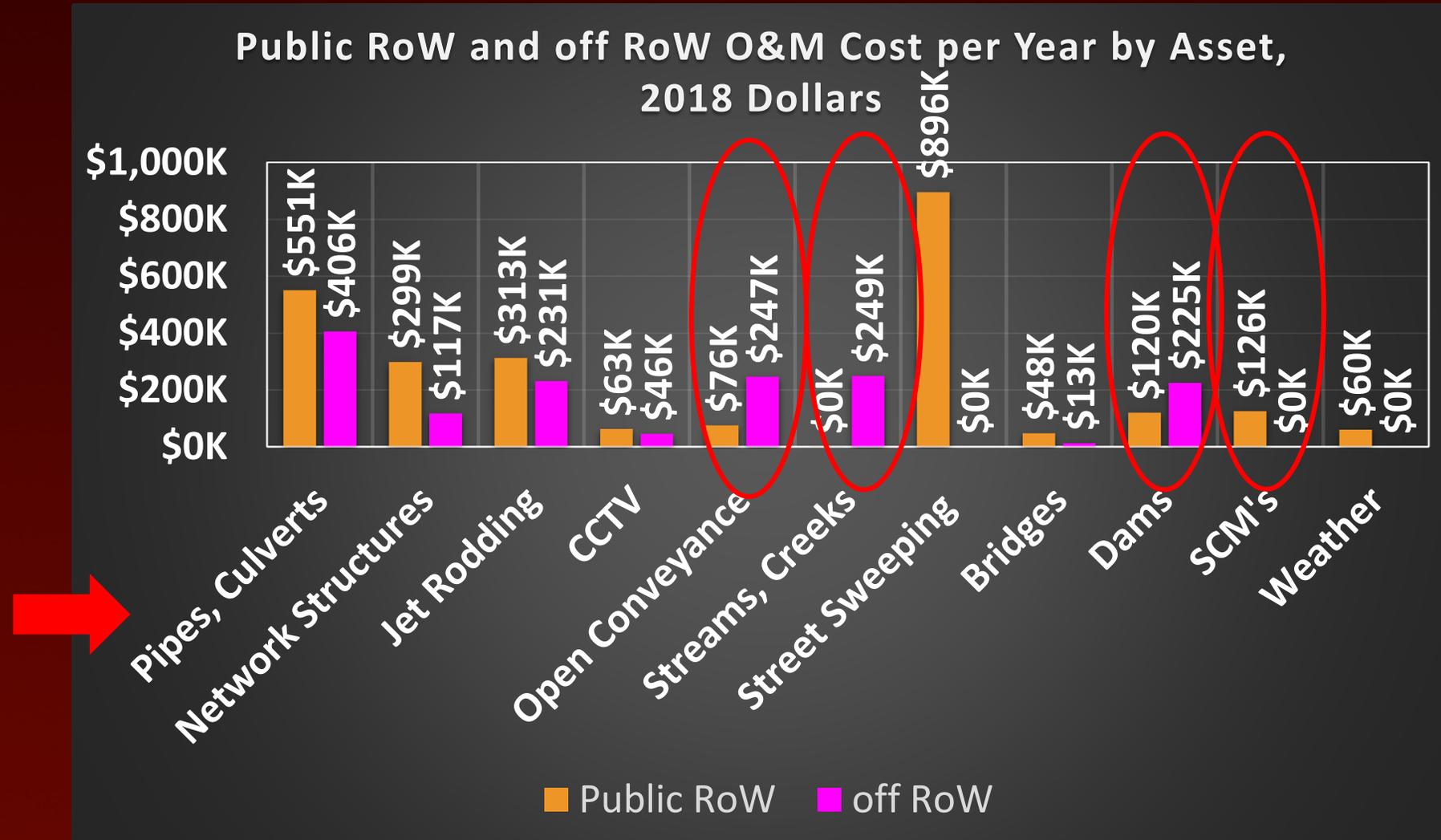
Potential Liability – Public RoW and off RoW O&M Costs

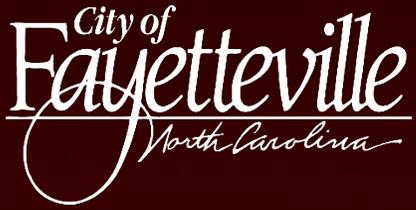
The O&M cost to meet the LOS described is estimated to increase by \$1.53M per year for the years 2010-2029 for additional services outside the public RoW

Public RoW and Off RoW O&M Costs Per Year (2018 Dollars)

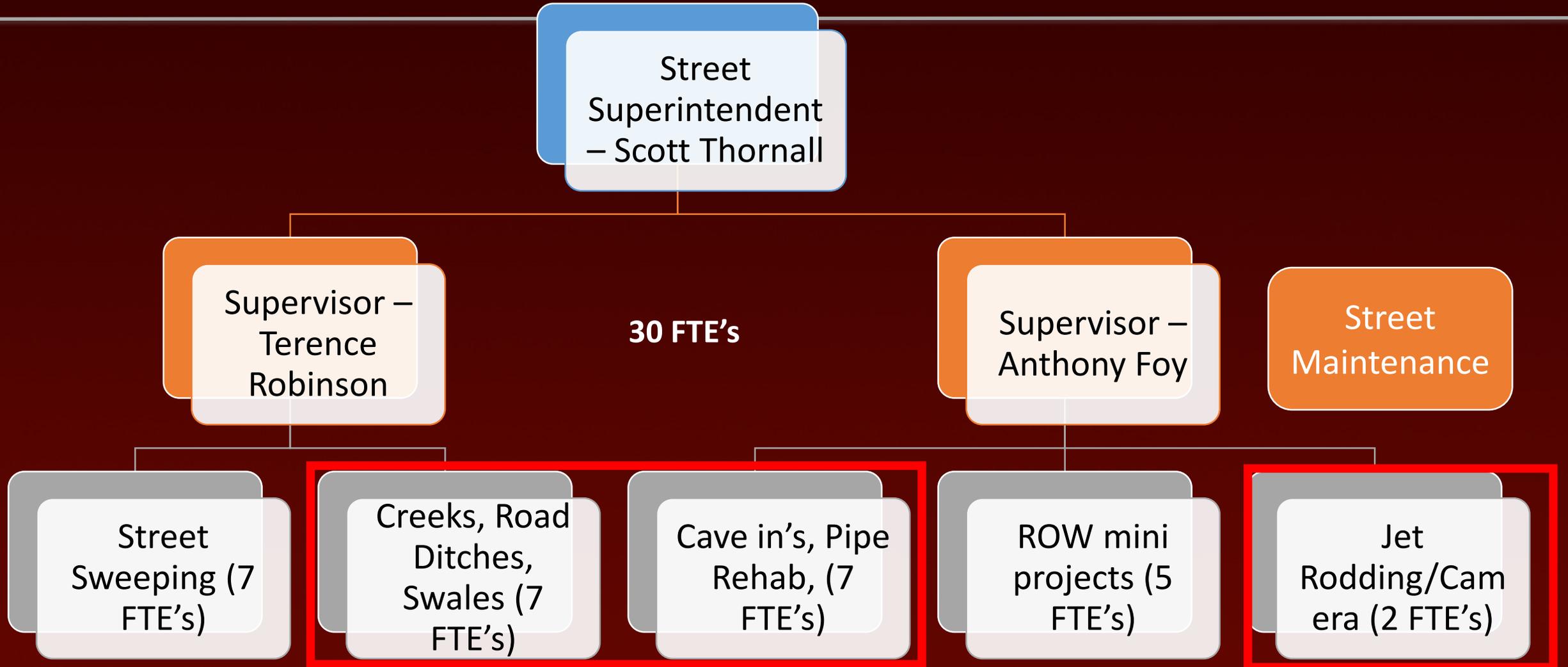


Public RoW and off RoW O&M Cost per Year by Asset, 2010-2029

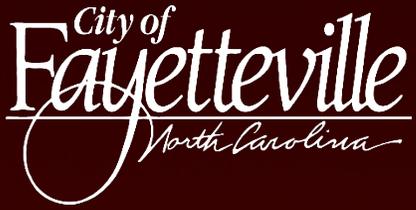




CoF O&M Staff Resources-Stormwater Maintenance



~Approximately add these three units – minimum 18 FTE's plus equipment for off RoW at LOS



Staff Resources - Comparison with other Municipalities

Municipality	Area (Square Miles)	RoW	Off RoW	FTE's	Square Miles per FTE	CoF % greater workload
Raleigh	145	✓	x	52	2.8	12%
Durham	108	✓	x	45	2.4	24%
Fayetteville	95	✓	x	30	3.2	

Maintain, repair, replace in the public RoW

Summary Potential Liability - O&M

Public RoW and Off RoW O&M Costs Per Year (2018

Dollars)

\$7.00 M
\$6.00 M
\$5.00 M
\$4.00 M
\$3.00 M
\$2.00 M
\$1.00 M
\$0.00 M

\$1.1

\$1.

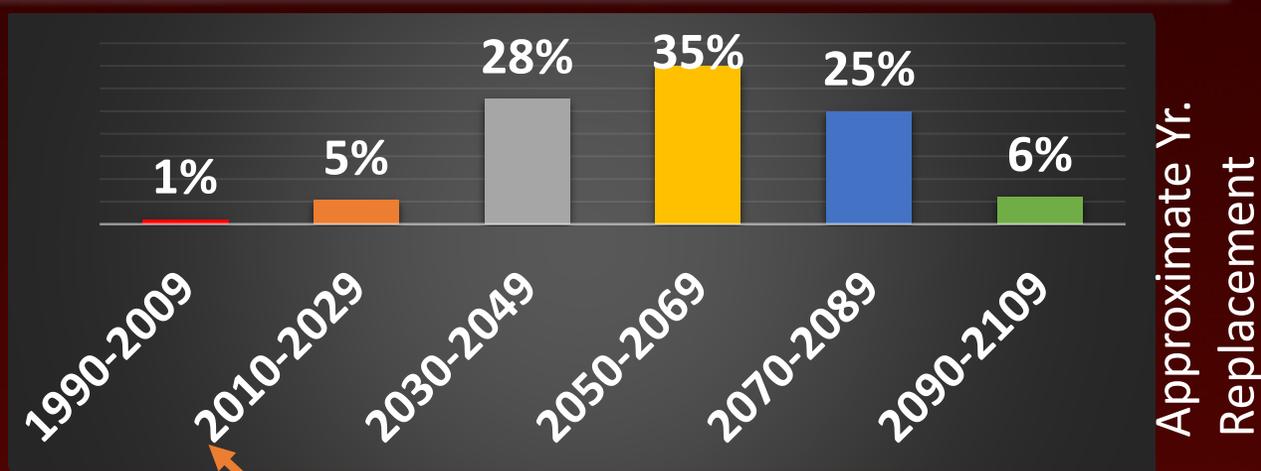
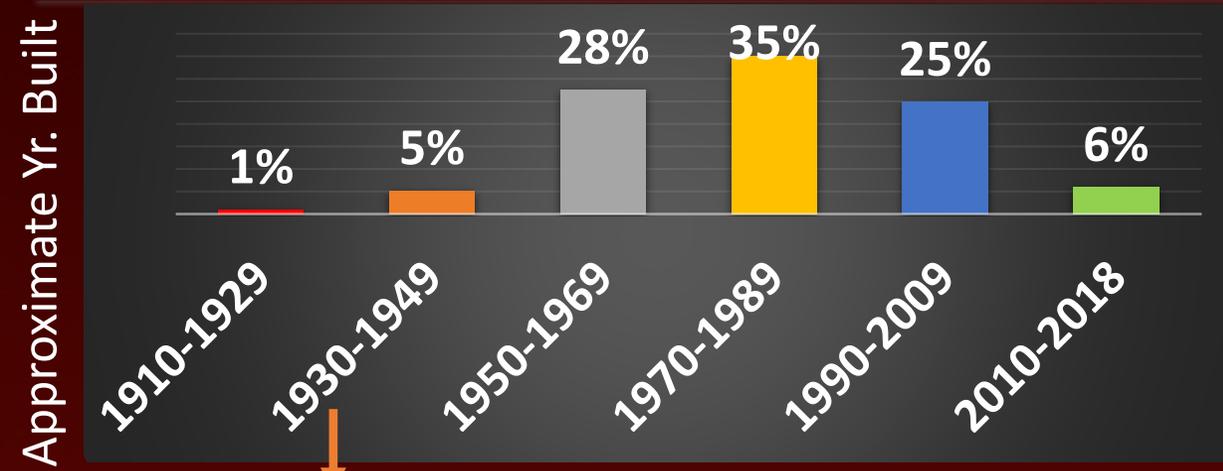
Any off RoW work coincides with an incremental capital financial liability.

1990 2009 2010 2029 2030 2049 2050 2069 2070 2089 2090 2109

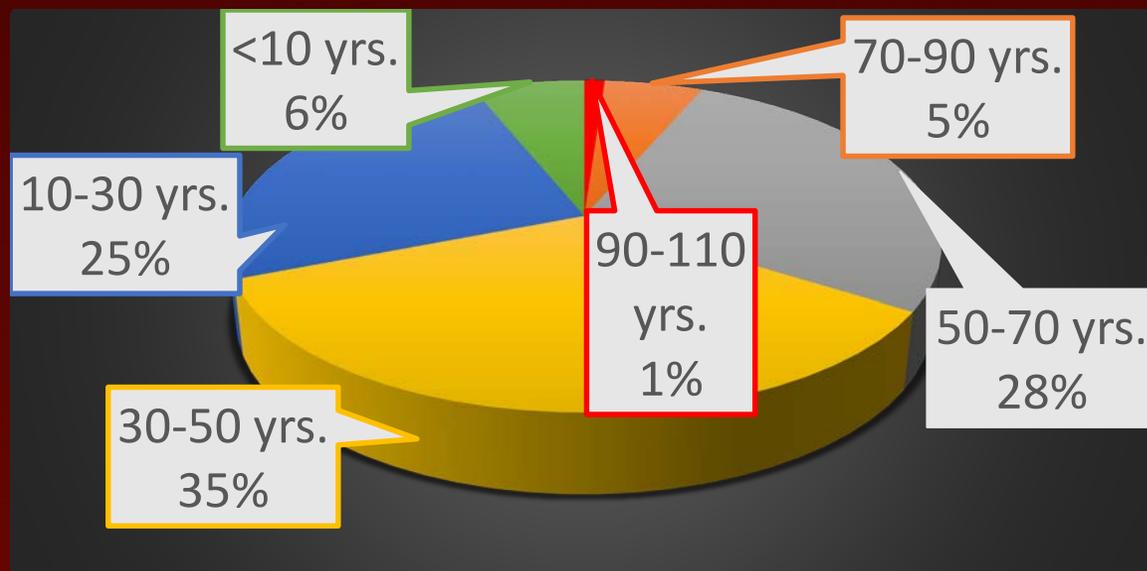
- Public RoW - Significantly understaffed and underfunded (\$410K)
- off RoW – Severely understaffed and underfunded (\$1.94M)

**Potential Liability - What is
the Capital Cost to Remove,
Replace and Reinstall
Stormwater Assets**

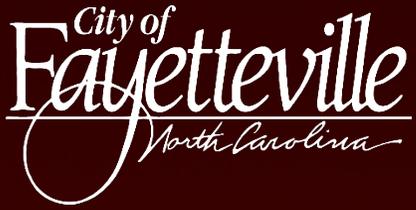
When will we have to replace it (condition)?



Pipe and Network Structures have 80 year life span



Existing Age of Stormwater Infrastructure



Capital Cost to Replace – Level of Service Core Responsibilities – RoW

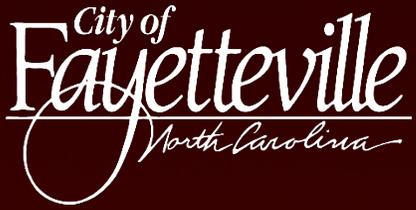
Full Replacement– Pipe/Structures - 80 Yr.- Cycle
Major Dams (RoW)– 120 yr. Cycle (1 every 20 years)
Minor Dams (off RoW) – 225 yr. Cycle (4 every 20 years)
Bridge Structures – 95 Yr. Cycle (1 every 5 years)

Street Sweeping – Equipment Replacement

RoW✓/off-RoW

SCM (2008 Ordinance) – 20 Yr. Cycle
Drainage Ditch/Shoulder – 20 Yr. Cycle
Creeks 400 yr. Cycle (5% in 20 Yrs.)

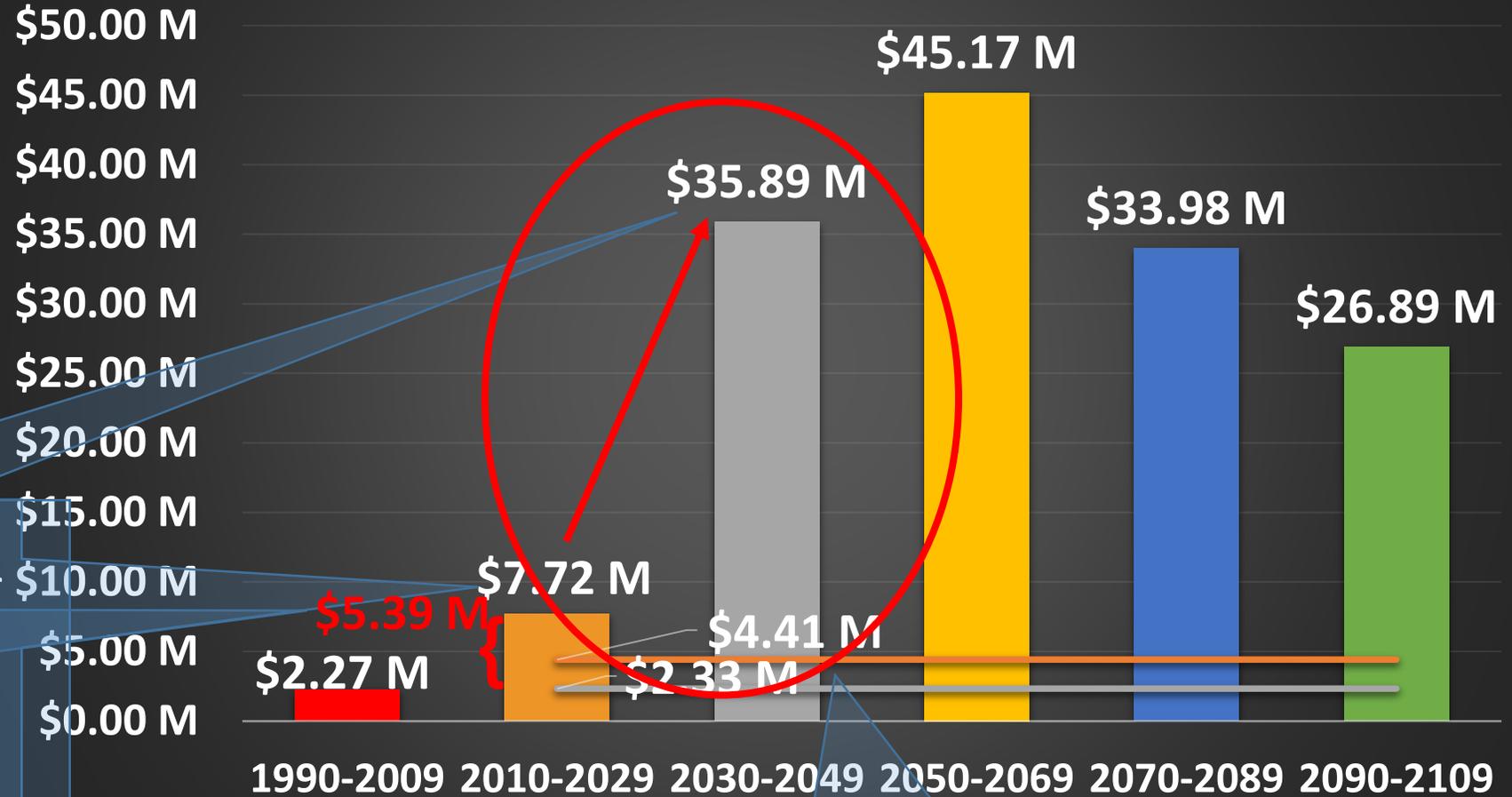
CCTV – Equipment Replacement
Emergency Prep – NA



Potential Liability – Public RoW Capital Costs

Current Age (yr)	Max. Lifespan	
90-110	1990-2009	1%
70-90	2010-2029	5%
50-70	2030-2049	28%
30-50	2050-2069	35%
10-30	2070-2089	25%
<10-proj.	2090-2109	12%

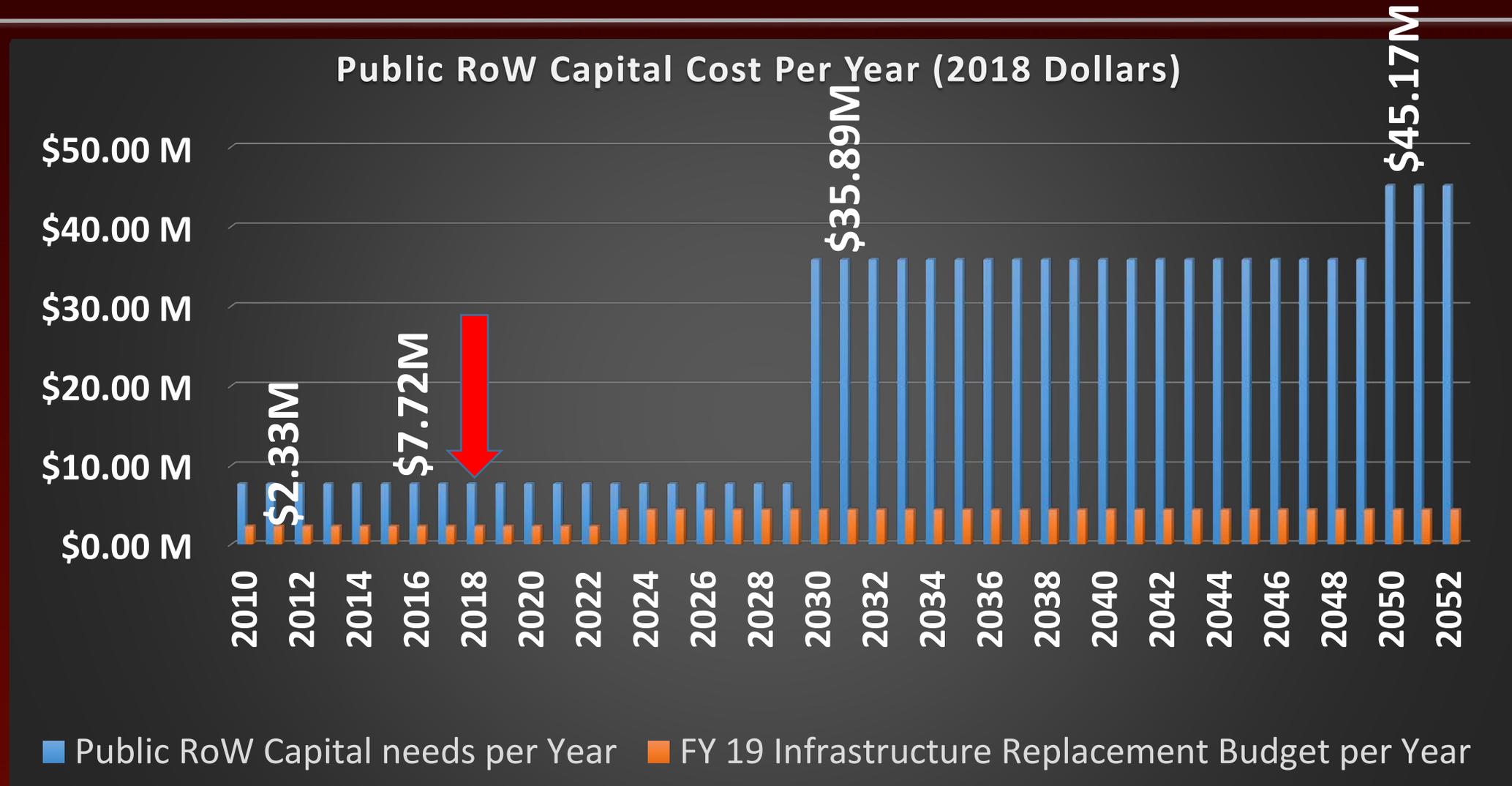
Public RoW Capital Cost Per Year (2018 Dollars)



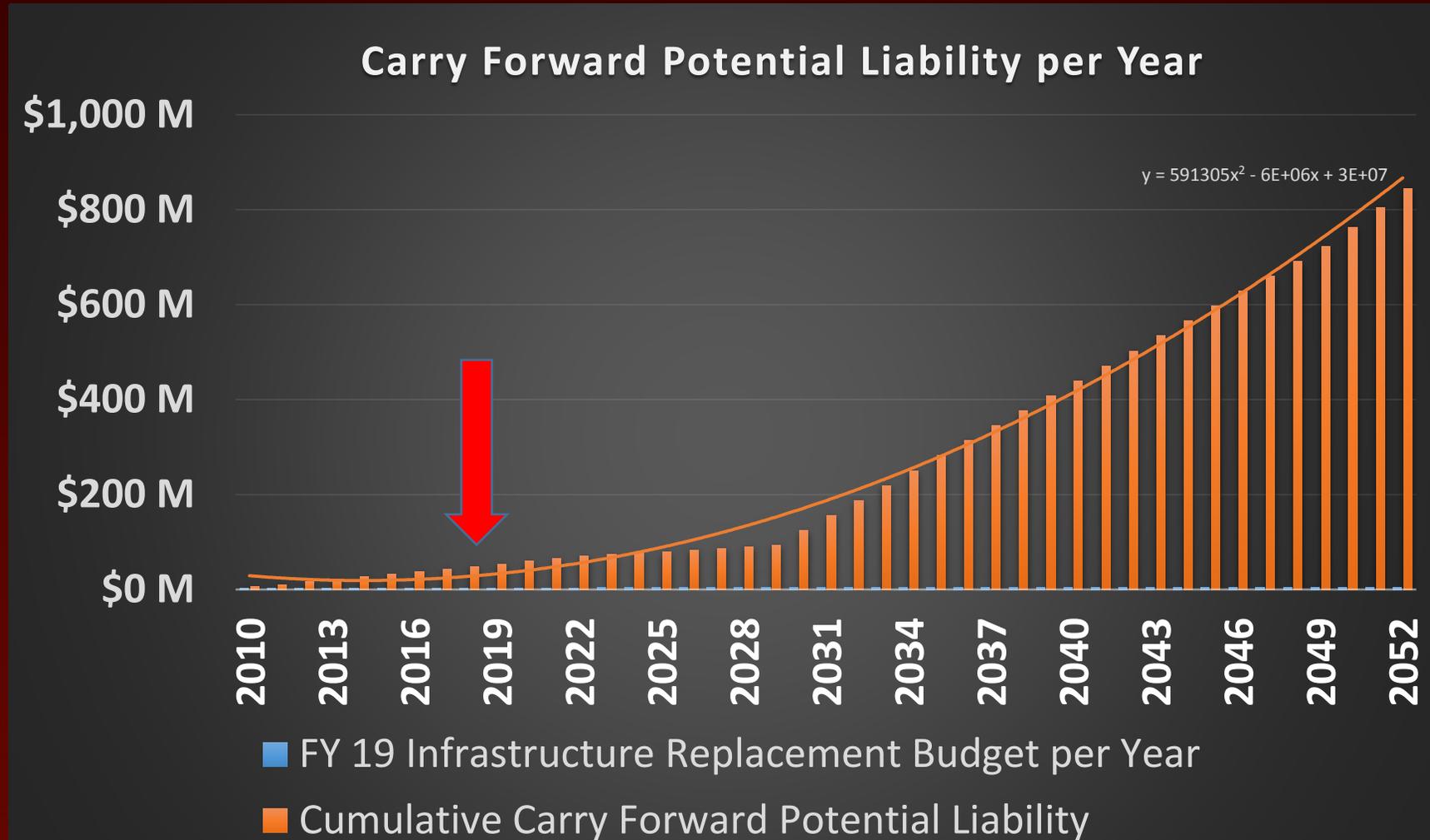
The capital needs will increase to \$35.89M/yr. by 2030-2049. We are currently \$5.39M/yr. in the 2030-2049s 2010-2029. 28% of our existing infrastructure will have reached or exceeded its lifespan by this time.

Watershed studies

Potential Liability – Public RoW Capital Costs (2010-2052)



Potential Carry Forward Liability – Public RoW Capital Costs (2010-2052)



Potential Liability – RoW ✓ and off RoW ✗ Capital Costs

Full Replacement– Pipe/Structures - 80 Yr.- Cycle
Major Dams (RoW)– 120 yr. Cycle (1 every 20 years)
Minor Dams (off RoW) – 225 yr. Cycle (4 every 20 years)
Bridge Structures – 95 Yr. Cycle (1 every 5 years)

Street Sweeping – Equipment Replacement

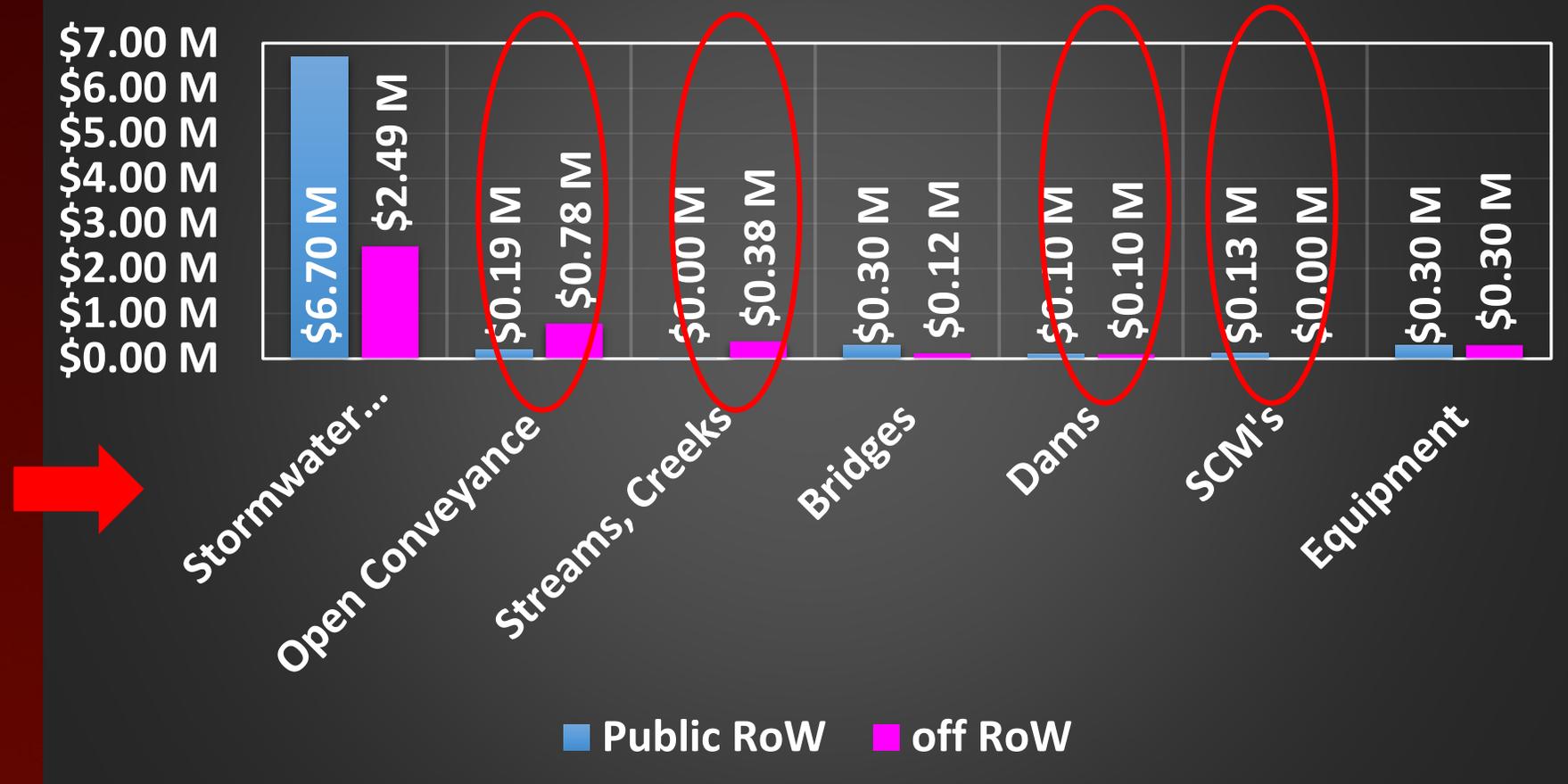
RoW ✓ / off-RoW

SCM (2008 Ordinance) – 20 Yr. Cycle
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CCTV – Equipment Replacement
Emergency Prep – NA

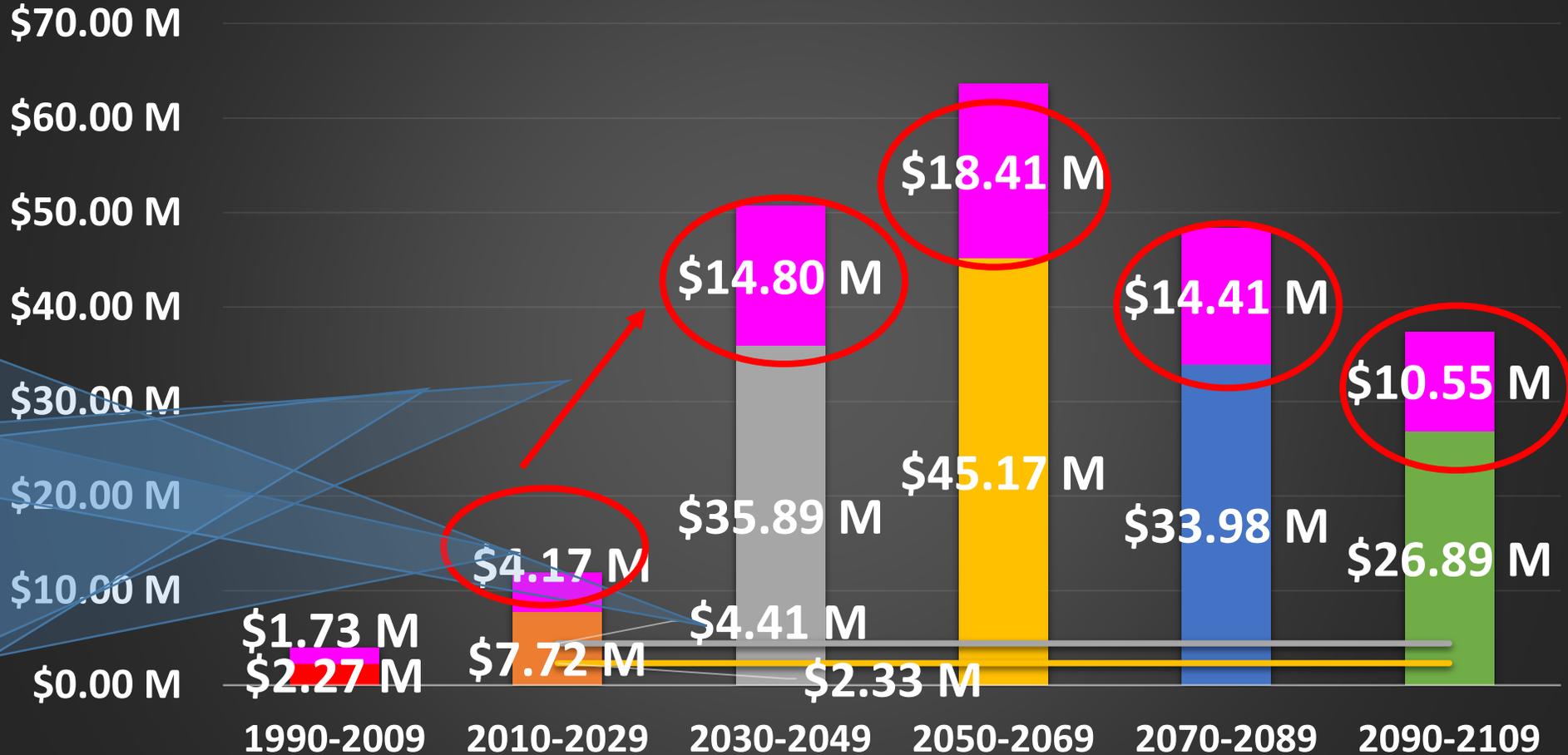
Public RoW and off RoW Capital Cost per Year by Asset, 2010-2029

Public RoW and off RoW Capital Cost per Year by Asset, 2010-2029, 2018 Dollars



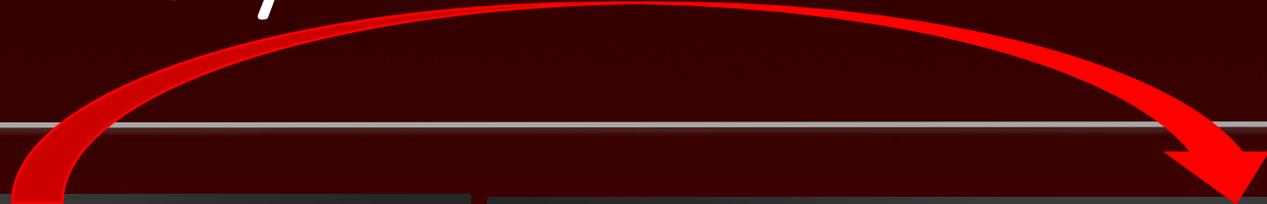
Summary

Public RoW and Off RoW Capital Cost Per Year (2018 Dollars)

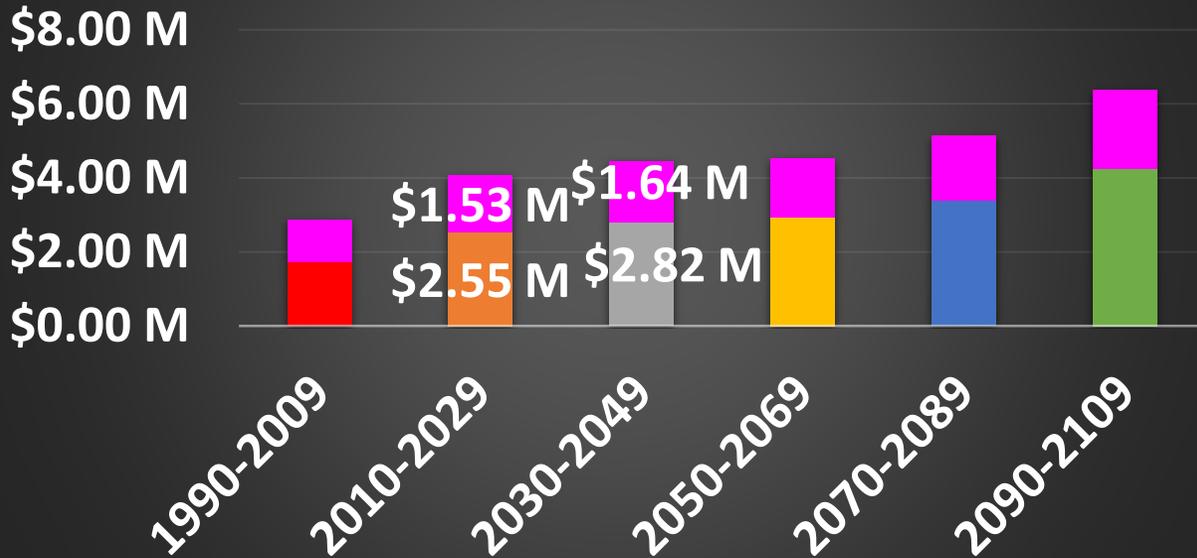


While this is a high level analysis, our current data indicates that ~28% of our O&M services for infrastructure was built between 1950-1969 and ~35% between 1970-1989. This rapid change in growth will undoubtedly require replacement for existing years and this infrastructure matures to maximum life. **\$15M/yr. in future years.**

Summary



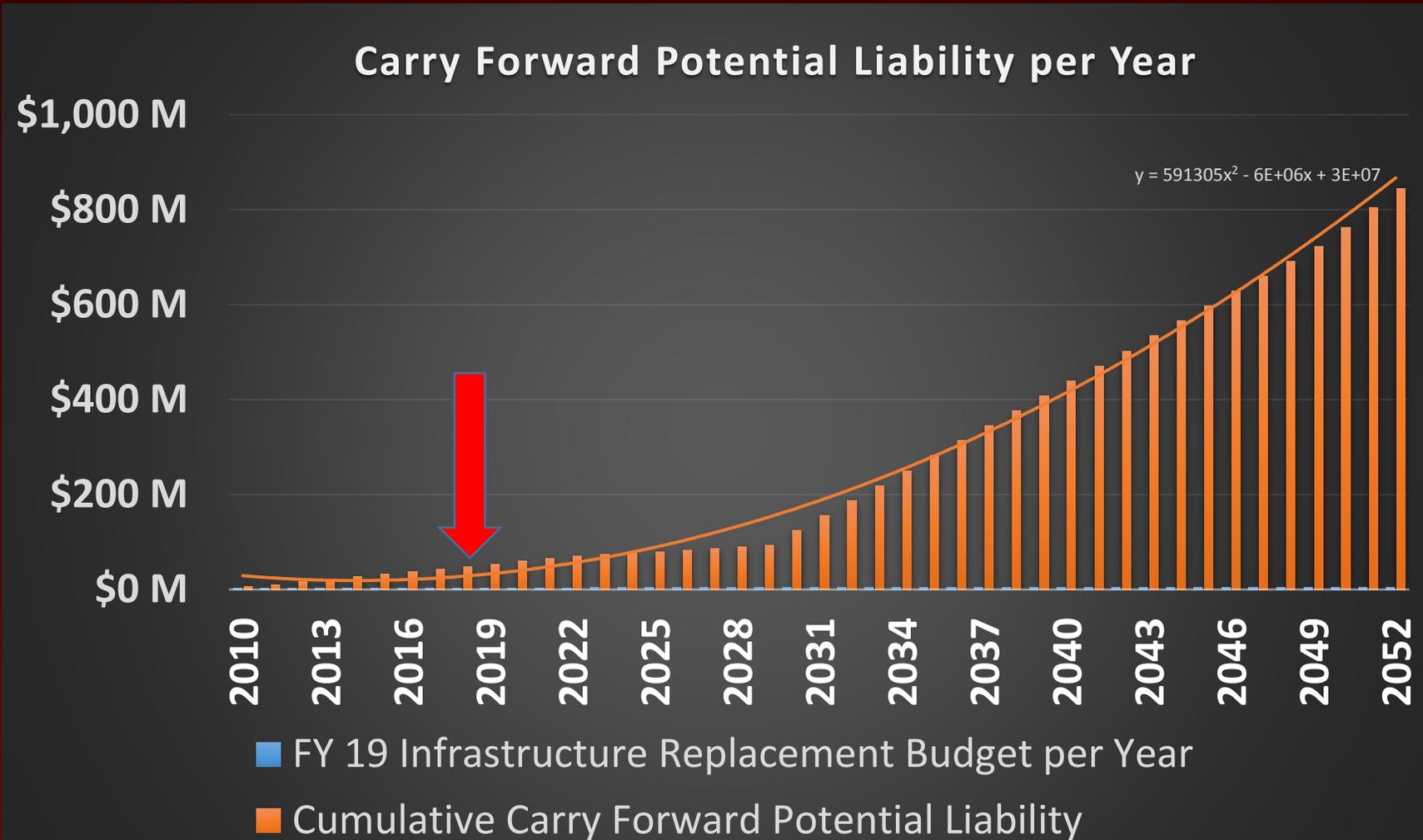
Public RoW and Off RoW O&M Costs Per Year (2018 Dollars)



Public RoW and Off RoW Capital Cost Per Year (2018 Dollars)



Potential Carry Forward Liability – Public RoW Capital Costs (2010-2052)



Options for Private Properties

What do Other Municipalities do?

Drainage Assistance Program for off-RoW

Usually for
minor
projects

Cost Share

Municipality
portion is
funded
through CIP
process

Public
contribution
of runoff

Priority
based

Projects are
approved by
Stormwater
Board

What do Other Municipalities do?

City	Allocated Funds from CIP	Cost Share	Limits	Priority Based
Raleigh	\$1.25M	100	No Cap Indv. Cap per Project	✓
Durham		80/20	\$25K per property	✓
Winston Salem		70/30	\$35K per property	✓
Cary		50/50		✓

Summary - Legal

Issues/Analysis

- ◆ Maintain, repair, remove, replace: public RoW ✓, off RoW ✗
- ◆ Inconsistent application of our understanding this obligation.
- ◆ CoF ordinance will benefit from additional clarity regarding this issue.

Staff Recommendations

- ◆ City Council adopts revisions to the ordinance and approves policy changes to future plat and easement requirements.

Options

- ◆ Endorse revisions to the ordinance and approve policy changes to future plat and easement requirements.
- ◆ Do not endorse revisions to the ordinance, do not approve policy changes and provide further direction to the City Manager.

Summary - Resources

Issues/Analysis

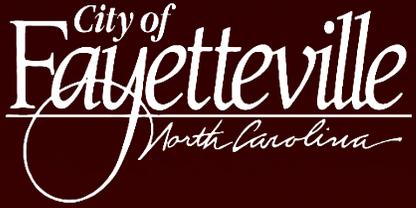
- ◆ Significantly understaffed and underfunded to support O&M obligations in the public RoW within a consistent and defined LOS.
- ◆ Severely understaffed and underfunded to support O&M demands off-RoW.
- ◆ Any additional extension of our core responsibilities will result in substantial capital liability.

Staff Recommendations

- ◆ CoF staff perform O&M only within the public RoW.
- ◆ CoF staff develop a 'Drainage Assistance Program' to address off RoW issues for future Council review and guidance.

Options

- ◆ Endorse a policy for staff to perform O&M only within the public RoW.
- ◆ Direct CoF staff to develop a 'Drainage Assistance Program' for further Council review and guidance.
- ◆ Do not endorse policy changes, do not direct staff to develop a 'Drainage Assistance Program' and provide further direction to the City Manager.



Questions?

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Interim Public Services Director, PE, CCM, CFM

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Assistant City Attorney

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