



02.26.22

4TH ANNUAL CONSTRUCTION KICKOFF

KEGLER
BROWN
HILL+
RITTER

OHA
OVERMYER HALL
ASSOCIATES
CONSTRUCTION INSURANCE & BONDING



Rea & associates
CPAs and business consultants

AGENDA

7:30 - 8:05 AM

Breakfast & Networking

8:05 - 8:15 AM

Economic/Financial Update

(presented by Doug Houser, Rea & Associates)

8:15- 8:25 AM

Insurance Update

(presented by Chris Ramsey, Overmyer Hall Associates)

8:25 - 8:35 AM

Legal Update

(presented by Mike Madigan, Kegler Brown)

8:35 - 8:45 AM

Surety Update

(presented by David Catanese and Jack Kehl, Overmyer Hall)

8:45 - 8:55 AM

Tax Update

(presented by Melissa Dunkle and Scott Bechtel, Rea & Associates)

8:55 - 9:00 AM

Coffee Break

9:00 - 9:45 AM

Panel Discussion (All Speakers)

9:45 - 10:00 AM

Networking & Departure

4TH ANNUAL CONSTRUCTION KICKOFF



**Doug Houser, CPA,
MBA, CEPA**

Director of Construction &
Real Estate Services

CONSTRUCTION OUTLOOK & FINANCING MARKET CONDITIONS



Rea & associates

CPAs and business consultants

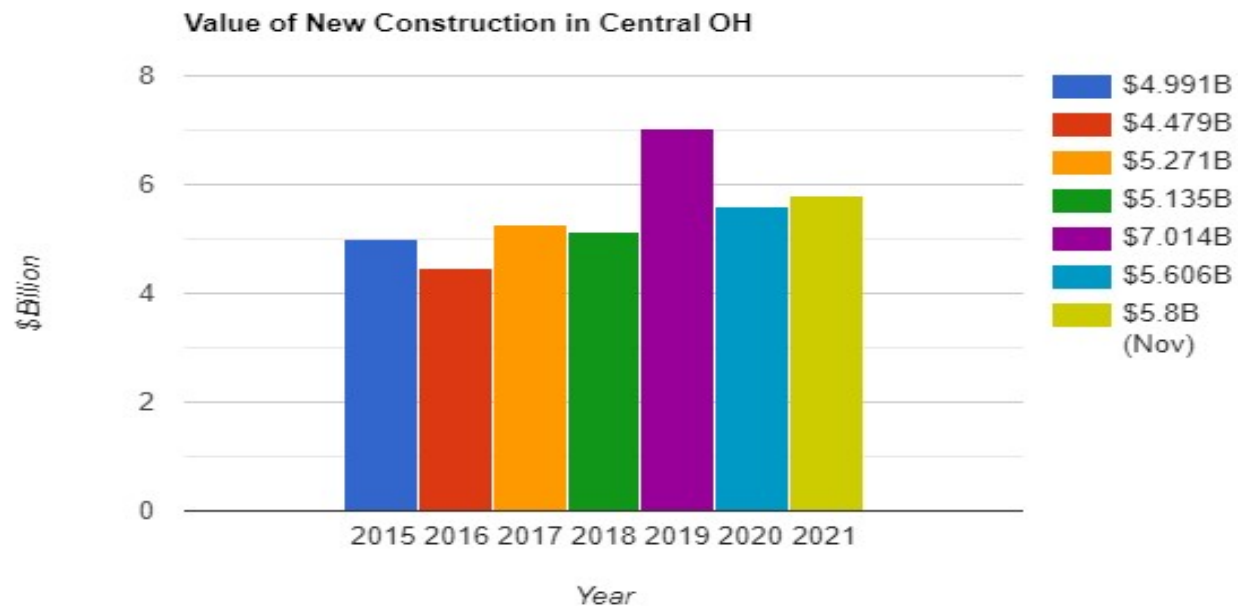
Population Change

Columbus – leading growth in Midwest

Rank	Midwest metro (>1 million)	% change '10-'20
1.	Columbus, OH	12.20%
2.	Indianapolis, IN	10.48%
3.	Minneapolis, MN	9.50%
4.	Grand Rapids, MI	8.76%
5.	Kansas City, MO	7.94%
6.	Louisville, KY	5.34%
7.	Cincinnati, OH	4.29%
8.	Milwaukee, WI	1.35%
9.	St. Louis, MO	0.55%
10.	Detroit, MI	0.30%
11.	Chicago, IL	-0.68%
12.	Cleveland, OH	-1.53%

Source: U.S. Census Bureau estimates. Midwest includes OH, MI, IN, IL, WI, MN, IA, MO, ND, SD, NE, KS.

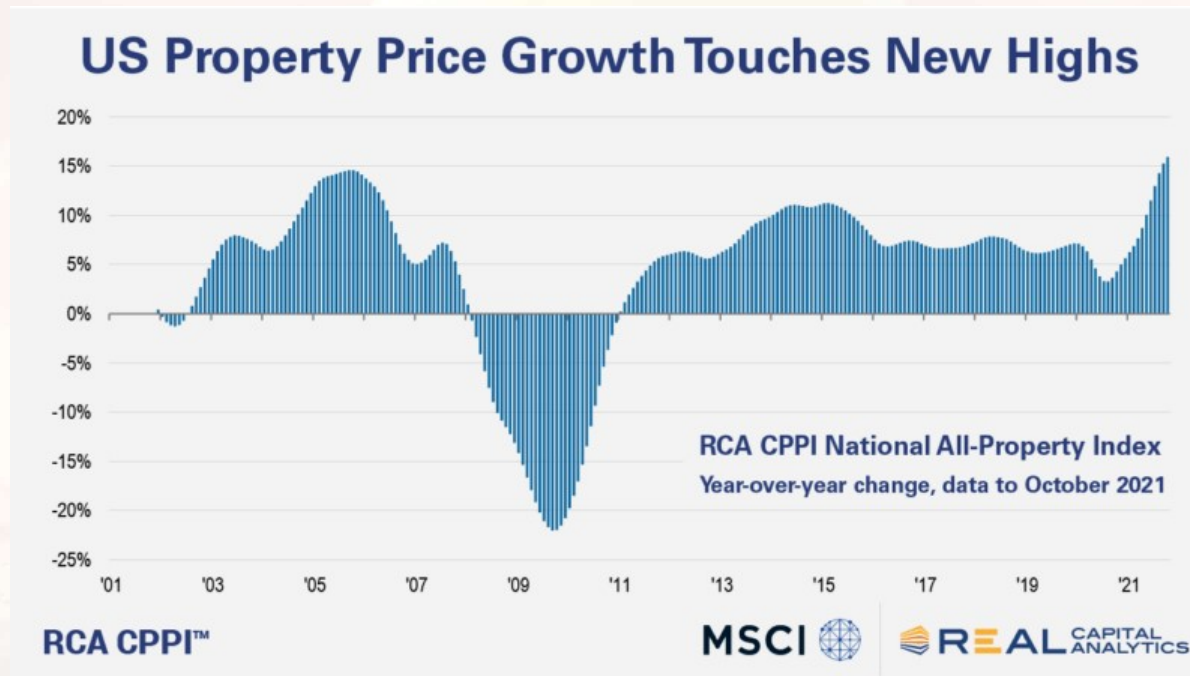
Construction in Central OH



Includes Delaware, Franklin, Fairfield, Licking, Madison, Morrow, Pickaway and Union counties.

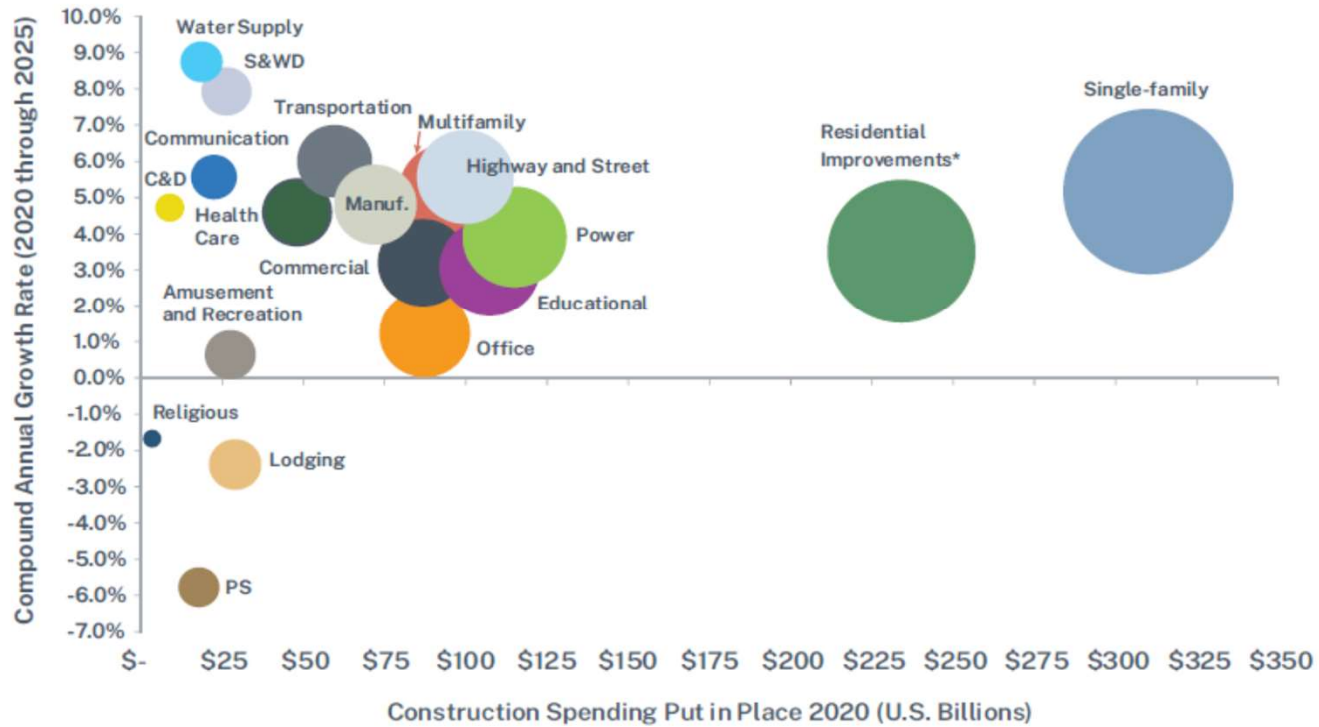
Source: Dodge Data & Analytics

Commercial Real Estate Remains Hot



Source: Real Capital Analytics

Total U.S. Construction Spending Put in Place 2020 and Forecast Growth (2020 through 2025) by Construction Segment

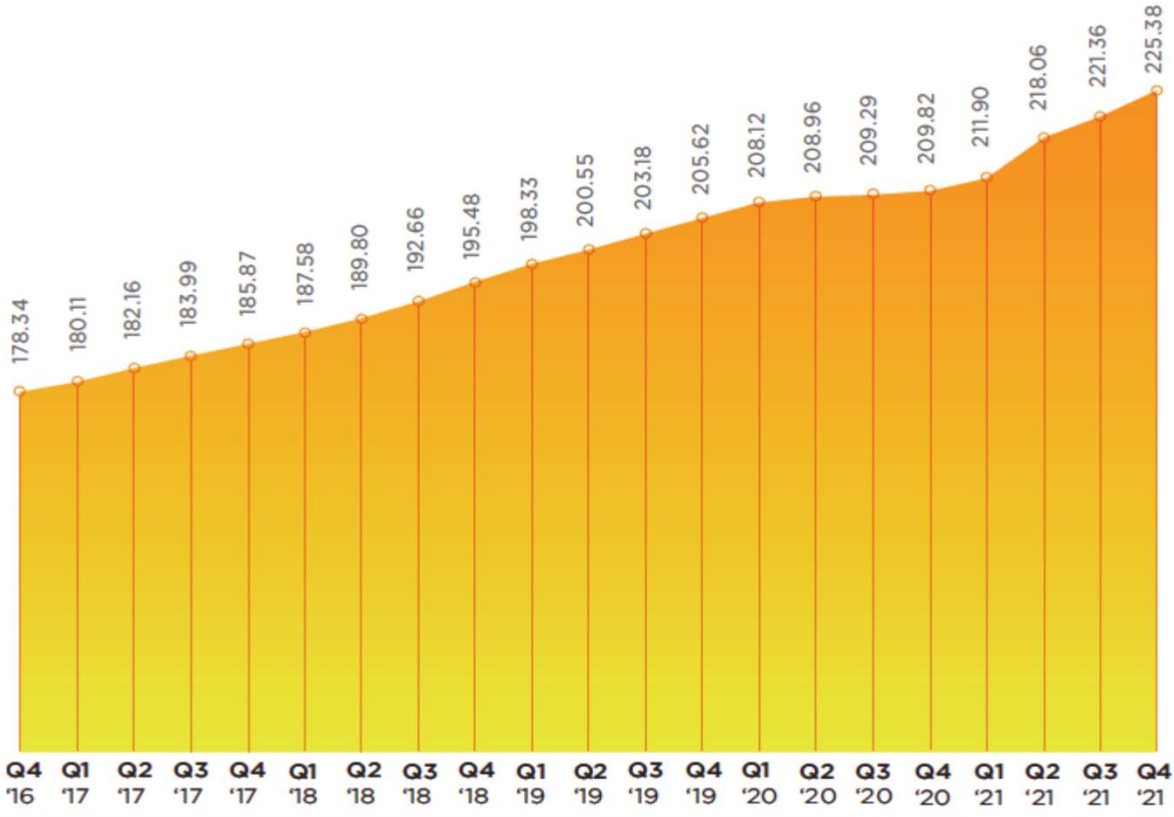


*Improvements includes additions, alterations and major replacements. Maintenance and repairs are not included.

Source: FMI

Cost Overview

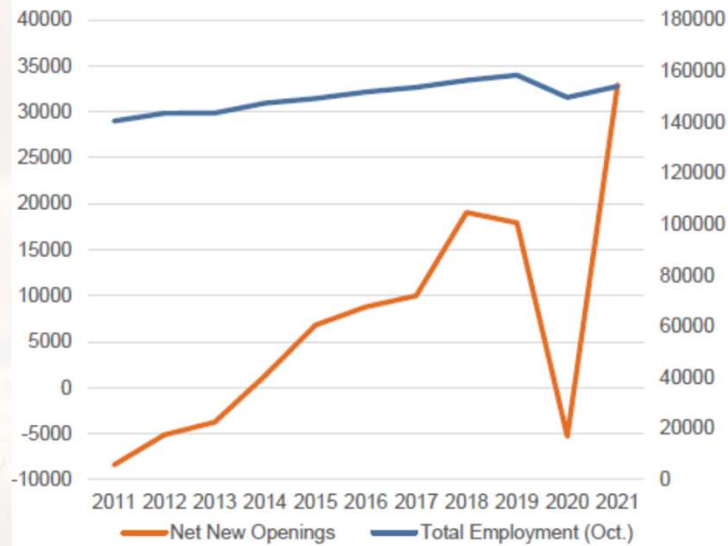
NATIONAL CONSTRUCTION COST INDEX



Per Rider Levett Bucknall

Workforce Issues

Job postings are up 43%. But even pre-COVID, demand was increasing faster than the growth in the workforce

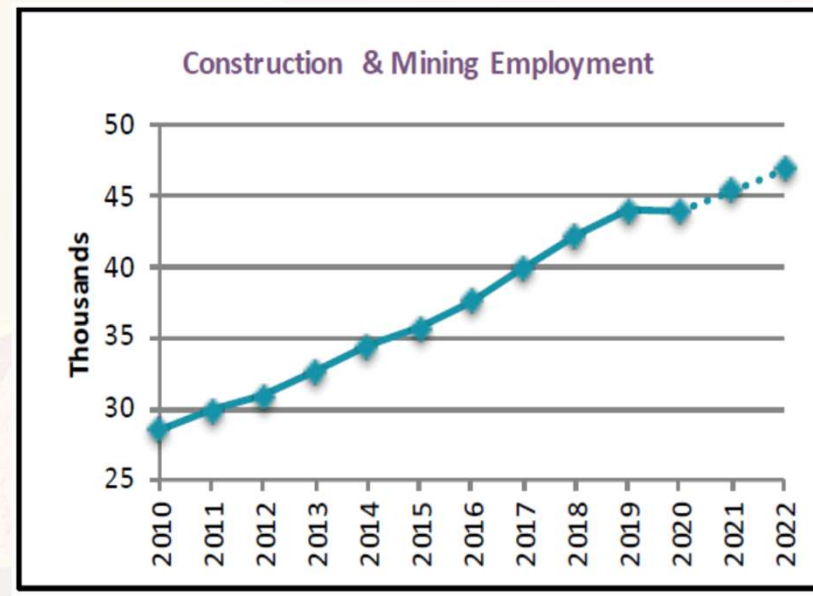
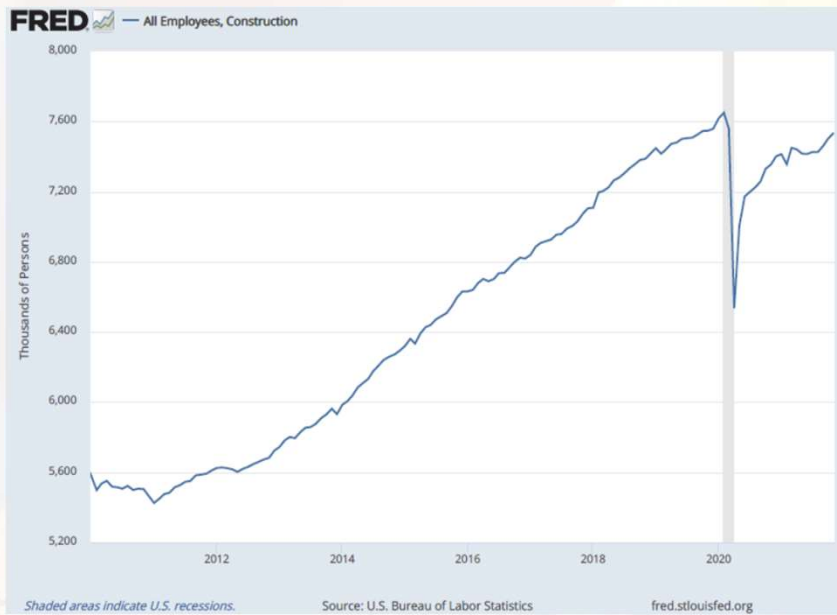


Source: Burning Glass Institute

Degree inflation has created an artificial gap between demand & supply

Occupation	% of job posts requiring B.A.	% of current workers with B.A.	Credentials Gap
Construction Supervisor	47%	12%	35%
Retail Supervisors	53%	25%	28%
Production Supervisors	73%	16%	57%
Transportation & Distribution Supervisors	81%	29%	52%

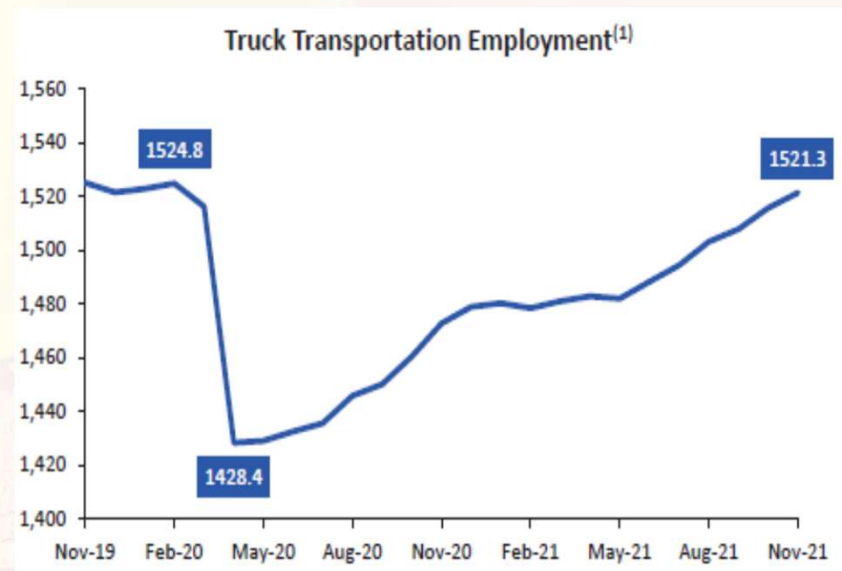
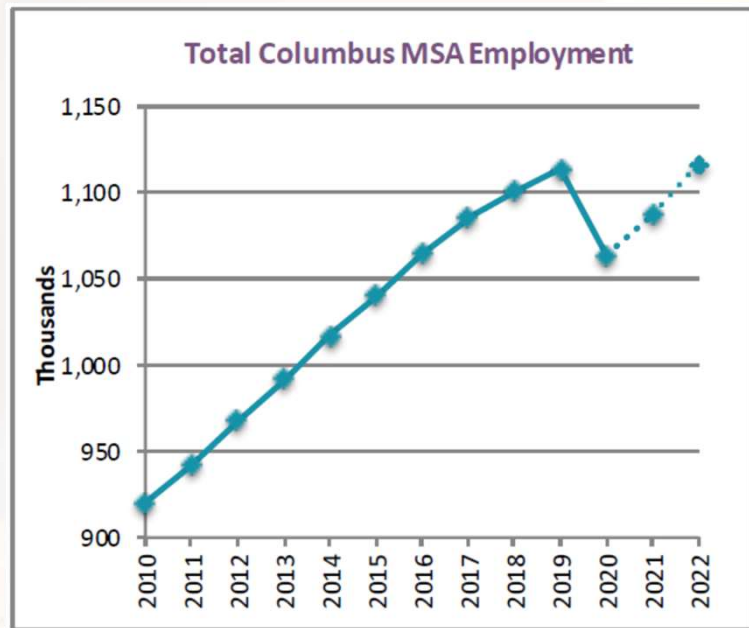
Construction Employment (US & Central OH)



Courtesy Fed Res of StL, Regionomics

Cost Overview

Other Employment Data

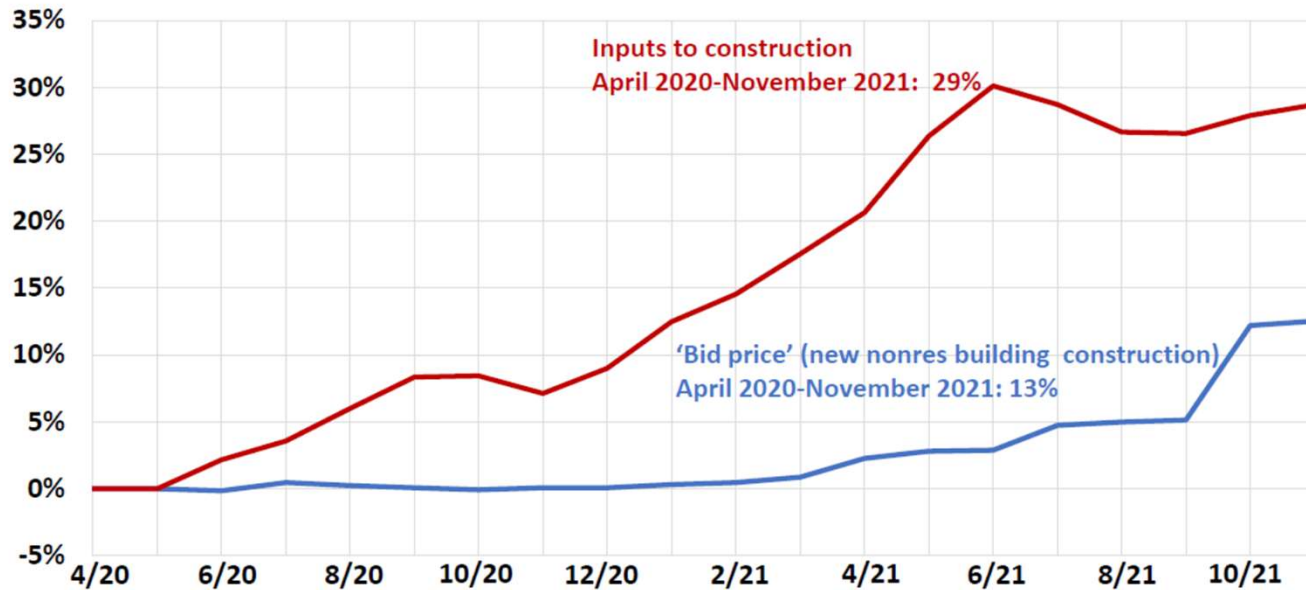


Courtesy Regionomics, BofA

Construction Cost Overview

Construction input and 'bid price' producer price indexes (PPIs)

cumulative change in PPIs, April 2020 - November 2021 (not seasonally adjusted)



1 | Source: Bureau of Labor Statistics, producer price indexes, www.bls.gov/ppi

©20: ©2021 The Associated General Contractors of America, Inc.

The areas in red indicate periods in which the year-over-year change in the PPI for inputs to construction exceeded the PPI for new warehouse construction. Similar periods exist for the other new-construction "bid price" indexes: the PPIs for new school, office, industrial and healthcare buildings.

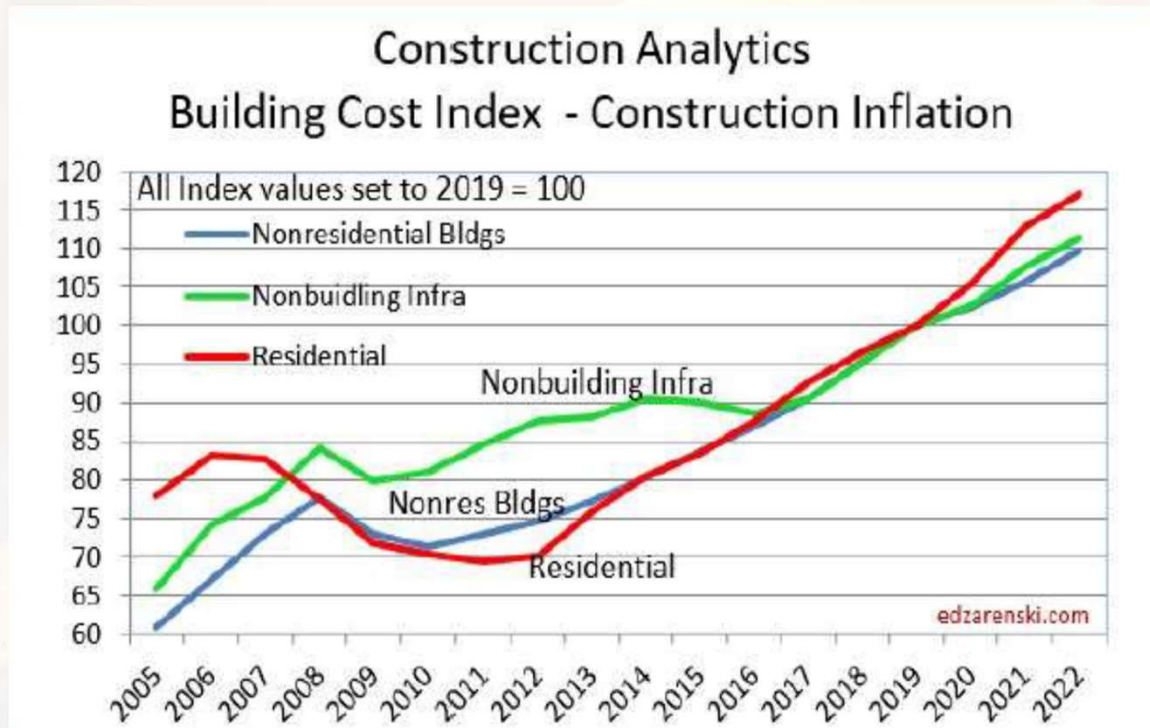
Commodity Index



Note that prices are only now back to 2015 levels.

Index of 19 commodities/raw materials – includes gasoline, steel, lumber (per Trading Economics)

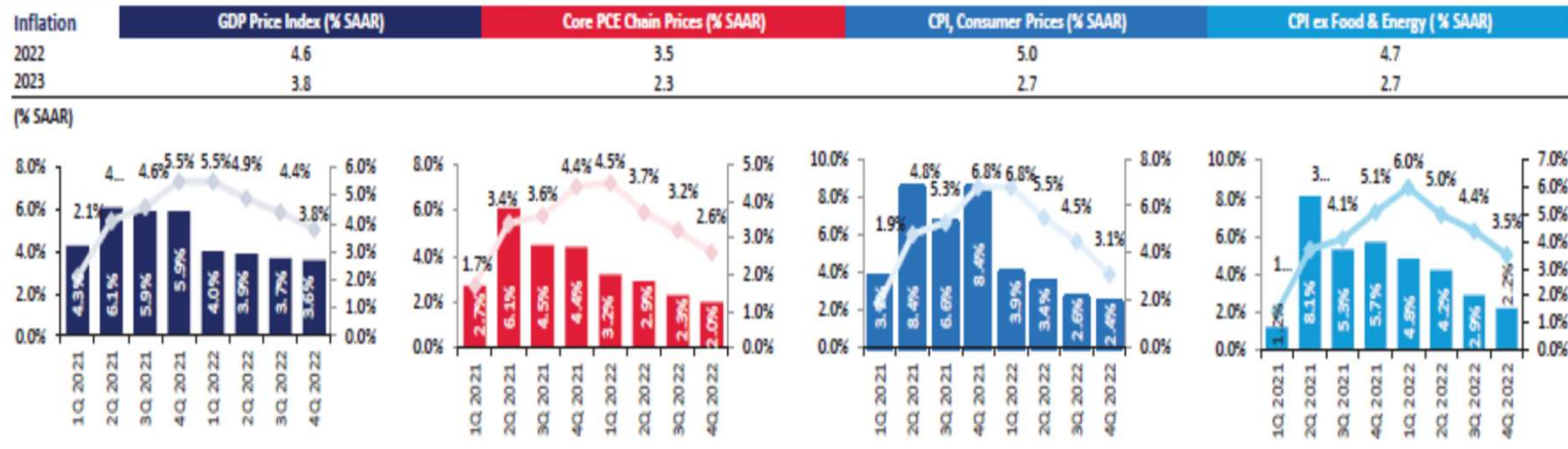
Construction Cost Overview



Source: Construction Analytics

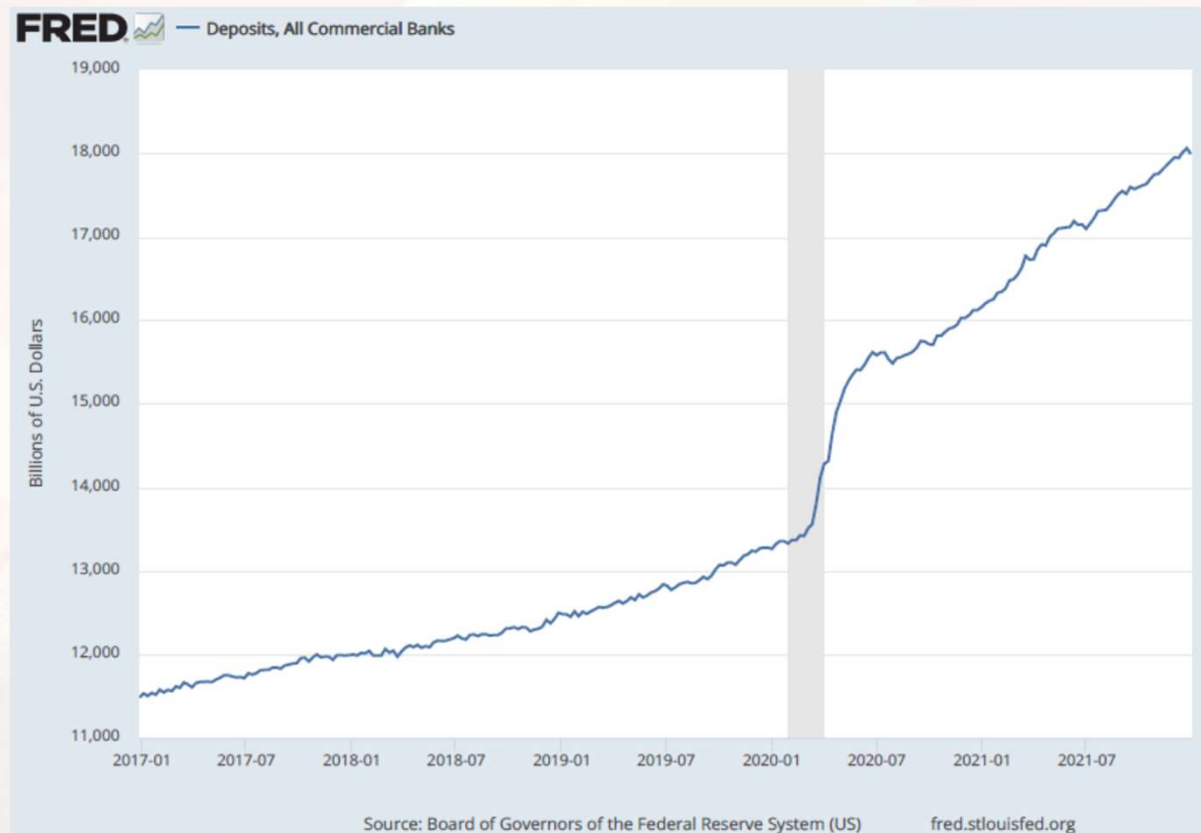
Expect non-residential buildings inflation to range between 3.2% to 3.7%, with potential to be held lower. Expect inflation of 7% to 8% for residential work with potential to push slightly higher.

Inflation Projection: ~3.0% in '22



Courtesy BofA

Banks are Flush with Liquidity



Cash Flow

FORECAST STARTS AND PREDICTED SPENDING FROM CASH FLOW													
Construction Analytics			Change		Change		Change		Change		Change		
TOTAL CONSTRUCTION			Yr/Yr		Yr/Yr		Yr/Yr		Yr/Yr		Yr/Yr		
\$ in millions 000,000s		2018		2019		2020		2021		2022		2023	
Backlog at Start of Yr	RSDN	180,362	4.6%	181,172	0.4%	198,189	9.4%	218,129	10.1%	264,294	21.2%	270,299	2.3%
New Starts in Year	RSDN	561,481	1.8%	580,724	3.4%	621,169	7.0%	772,766	24.4%	788,222	2.0%	835,747	6.0%
Total CashFlow in Yr	RSDN	560,671	3.2%	563,707	0.5%	601,229	6.7%	726,601	20.9%	782,217	7.7%	819,924	4.8%
Backlog at Start of Yr	NONRES	512,714	7.9%	549,313	7.1%	560,207	2.0%	476,261	-15.0%	484,907	1.8%	519,752	7.2%
New Starts in Year	NONRES	469,110	4.8%	459,446	-2.1%	371,657	-19.1%	429,810	15.6%	465,335	8.3%	486,485	4.5%
Total CashFlow in Yr	NONRES	432,512	5.5%	446,773	3.3%	457,381	2.4%	421,164	-7.9%	430,489	2.2%	458,266	6.5%
Backlog at Start of Yr	NONBLD	490,820	10.3%	546,309	11.3%	580,959	6.3%	528,652	-9.0%	483,690	-8.5%	482,118	-0.3%
New Starts in Year	NONBLD	359,187	7.9%	363,038	1.1%	303,284	-16.5%	315,757	4.1%	340,770	7.9%	368,629	8.2%
Total CashFlow in Yr	NONBLD	303,698	5.8%	328,388	8.1%	355,591	8.3%	360,719	1.4%	342,342	-5.1%	339,377	-0.9%
Backlog at Start of Yr	TOTAL	1,183,896	8.4%	1,276,794	7.8%	1,339,355	4.9%	1,223,042	-8.7%	1,232,891	0.8%	1,272,169	3.2%
New Starts in Year	TOTAL	1,389,778	4.3%	1,403,207	1.0%	1,296,110	-7.6%	1,518,333	17.1%	1,594,327	5.0%	1,690,860	6.1%
Total CashFlow in Yr	TOTAL	1,296,880	4.5%	1,338,868	3.2%	1,414,201	5.6%	1,508,483	6.7%	1,555,049	3.1%	1,617,567	4.0%
Reference Source: Dodge Data & Analytics Starts thru Nov 2021 + 2022 Outlook											edzarenski.com		

Source: Construction Analytics

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Christopher Ramsey,
CLCS, CERC
Commercial Lines Advisor,
Construction

INSURANCE, RISK, AND RISK MANAGEMENT

“Are we (still) in a Hard Market???”

Good News:

The Market is Moderating!

Agenda

- 2022/2023 Insurance Outlook
- Cyber Risk Management
- Auto Safety Technology

Commercial Property/Casualty Market Executive Summary

The following are key takeaways from The Council of Insurance Agents & Brokers' Commercial Property/ Casualty Market Report Q3 2021 (July 1 – September 30):

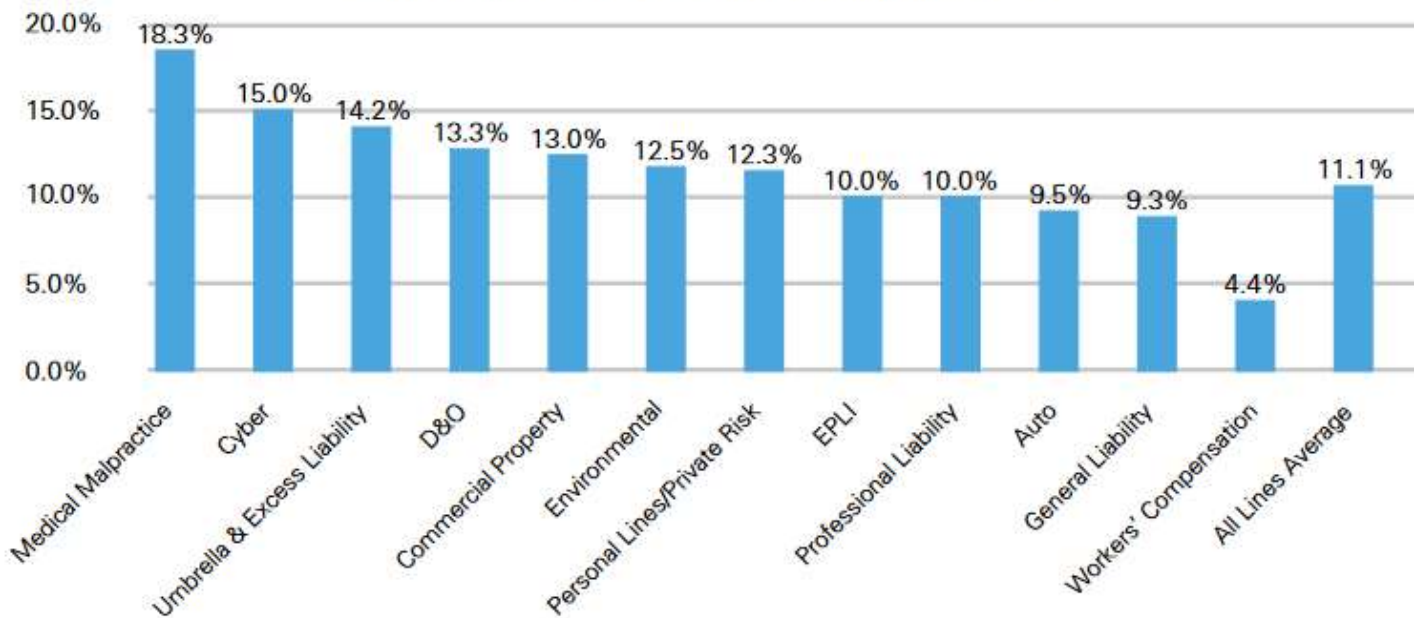
- Premiums increased for the 16th consecutive quarter
- Prices increased for almost all lines of business
- Cyber once again had record increases in Q3 2021

OHA Observations:

- Employment Practices Increasing
- Carriers are pulling back on appetite

Average Projected 2022 Pricing Change by Line of Business

Source: Alera Group 2022 Market Outlook Survey



Insurance Tips and Best Practices

- General Liability for Contractors
 - Start the renewal process early
 - Review/Update your contracts
 - Fine tune your Risk Management

Cyber Risk Management

- Cyber Liability and Crime
 - Social Engineering (Wire Transfer Fraud)
 - Extortion/Ransomware

Cyber Risk Management

- **Cyber Protection**

- Start with the basics – Cyber Security Posture
- Control the keys to your kingdom – Implement MFA
- Employee training
- Plan for disaster: Business Continuity Plan and Incident Response Plan
- Before the breach – Test!
- Work with your risk advisor

Auto Technology - Telematics

Capabilities

- Safety Tracking
- Vehicle tracking
- Trailer and asset tracking
- Maintenance improvements
- Insurance risk assessment

Auto Technology - Telematics

Benefits:

- Decreased Fuel Costs
- Improved Safety
- Claim Support

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Mike Madigan
Director

LEGAL UPDATE

Introduction



Mike Madigan
Director

KEGLER
BROWN
HILL +
RITTER



Construction Law Attorney
16+ Years Practicing



Former Project Manager
5+ Years at Whiting Turner



Civil Engineering Degree From the
University of Dayton

2021 Legal Development #1

Ohio Shortens Statute of Limitations For Breach of Contract Claims

- **Effective June 14, 2021**
- **6 Years For Breach of Written Contract**
Reduced From 8 Years
- **4 Years for Breach of Oral Contract**
Reduced from 6 Years

2021 Legal Development #2

Lien Rights For Design Professionals

- Senate Bill 49 Signed By Governor DeWine on July 1, 2021
- Grants Architects, Landscape Architects and Professional Engineers Lien Rights
 - Required to be in Contract with Owner
- Mechanic's Liens Filed Under Traditional Lien Statute (Chapter 1311) Take Priority

2021 Lien Statutes For Design Professionals

R.C. 4703.20-206 – Architects

R.C. 4703.54-546 – Landscape Architects

R.C. 4733.30-306- Professional Engineers

2021 Legal Development #3

Cautionary Tale For Design Professionals

**IN THE COURT OF APPEALS OF OHIO
ELEVENTH APPELLATE DISTRICT
LAKE COUNTY**

TRAX CONSTRUCTION CO.,

Plaintiff-Appellee,

- v -

VILLAGE OF REMINDERVILLE,

Defendant-Appellee,

OHM ADVISORS, et al.,

Defendants-Appellants.

CASE NOS. 2020-L-113
2020-L-127
2021-L-008

Civil Appeals from the
Court of Common Pleas

Trial Court No. 2018 CV 000184

OPINION

Decided: September 30, 2021

Judgment: Affirmed

Contractor Awarded The Following Damages Against Engineer

\$1,061,551.84 – Compensatory Damages

\$325,000.00 – Punitive Damages

\$483,870.53 – Attorney Fees

\$1,870,422.37

- Contractor Was Able to Recover Against Engineer Despite Not Being In Contract With Engineer
 - Contractor Had a Contract with the Owner
- Economic Loss Rule Did Not Apply To Claims For Fraud

Legal Development #4

Dispute Resolution During COVID



Anybody want to serve on the jury?



Civil Cases In The **More Populated** Ohio Counties Continue to Move Slowly

Arbitration Moves Much Quicker

2021 Development #5

Proof of Vaccine Requirements

SAFER FEDERALWORKFORCE

Certification of Vaccination

The purpose of this form is to take steps to prevent the spread of COVID-19, to protect the health and safety of all Federal employees, **onsite contractors**, visitors to Federal buildings or Federally controlled indoor workspaces, and other individuals interacting with the Federal workforce. If you fail to submit this signed attestation or any required negative COVID-19 test, you may be denied entry to a Federal facility.

My Vaccination Status

By checking the box below, I declare that the following statement is true:

- I am fully vaccinated.¹
- I am not yet fully vaccinated.²
- I have not been vaccinated.³
- I decline to respond.

I understand that if I decline to respond or am not fully vaccinated, I must comply with the following safety protocols while in a Federal facility:

- Wear a mask regardless of the level of community transmission;
- Physically distance; and
- Provide proof of having received a negative COVID-19 test from within the previous 3 days if I am a visitor or I am an onsite contractor who is not enrolled in an agency's testing program.

I sign this document under penalty of perjury that the above is true and correct, and that I am the person named below. I understand that a knowing and willful false statement on this form can be punished by fine or imprisonment or both (18 U.S.C. 1001). Checking "I decline to respond" does not constitute a false statement. I understand that if I am a Federal employee or contractor making a false statement on this form could result in additional administrative action,

How To Handle

- For Current Projects
 - Satisfy the Contract's Notice Provisions If There Will Be A Cost or Time Impact
- For Projects That Have Not Started Construction
 - Targeted Approach (Roadwork versus Interior Renovation)
 - Should Be Clear In The Documents
 - Contractors Will Need To Evaluate Contractual Obligation versus Staffing Before Committing

Bonus

2019 AIA Insurance Exhibit for CM-at-Risk Projects



AIA® Document A133™ – 2019 Exhibit B

Insurance and Bonds

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Construction Manager, dated the day of in the year
(In words, indicate day, month and year.)

for the following **PROJECT**:
(Name and location or address)

THE OWNER:
(Name, legal status, and address)

THE CONSTRUCTION MANAGER:
(Name, legal status, and address)

Builder's Risk Policy

§ B.2.3 Required Property Insurance

§ B.2.3.1 Unless this obligation is placed on the Construction Manager pursuant to Section B.3.3.2.1, the Owner shall purchase and maintain, from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located, property insurance written on a builder's risk "all-risks" completed value or equivalent policy form and sufficient to cover the total value of the entire Project on a replacement cost basis. The Owner's property insurance coverage shall be no less than the amount of the initial Contract Sum, plus the value of subsequent Modifications and labor performed and materials or equipment supplied by others. The property insurance shall be maintained until Substantial Completion and thereafter as provided in Section B.2.3.1.3, unless otherwise provided in the Contract Documents or otherwise agreed in writing by the parties to this Agreement. This insurance shall include the interests of the Owner, Construction Manager, Subcontractors, and Sub-subcontractors in the Project as insureds. This insurance shall include the interests of mortgagees as loss payees.

Provides Additional Coverage Options

- [] **§ B.2.4.1 Loss of Use, Business Interruption, and Delay in Completion Insurance**, to reimburse the Owner for loss of use of the Owner's property, or the inability to conduct normal operations due to a covered cause of loss.
- [] **§ B.2.4.2 Ordinance or Law Insurance**, for the reasonable and necessary costs to satisfy the minimum requirements of the enforcement of any law or ordinance regulating the demolition, construction, repair, replacement or use of the Project.
- [] **§ B.2.4.3 Expediting Cost Insurance**, for the reasonable and necessary costs for the temporary repair of damage to insured property, and to expedite the permanent repair or replacement of the damaged property.
- [] **§ B.2.4.4 Extra Expense Insurance**, to provide reimbursement of the reasonable and necessary excess costs incurred during the period of restoration or repair of the damaged property that are over and above the total costs that would normally have been incurred during the same period of time had no loss or damage occurred.
- [] **§ B.2.4.5 Civil Authority Insurance**, for losses or costs arising from an order of a civil authority prohibiting access to the Project, provided such order is the direct result of physical damage covered under the required property insurance.
- [] **§ B.2.4.6 Ingress/Egress Insurance**, for loss due to the necessary interruption of the insured's business due to physical prevention of ingress to, or egress from, the Project as a direct result of physical damage.
- [] **§ B.2.4.7 Soft Costs Insurance**, to reimburse the Owner for costs due to the delay of completion of the Work, arising out of physical loss or damage covered by the required property insurance: including construction loan fees; leasing and marketing expenses; additional fees, including those of architects, engineers, consultants, attorneys and accountants, needed for the completion of the construction, repairs, or reconstruction; and carrying costs such as property taxes, building permits, additional interest on loans, realty taxes, and insurance premiums over and above normal expenses.



Early Coordination With An Insurance Agent That Routinely Handles These Types of Policies Is Highly Recommended



Construction Manager's CGL Policy Requirements


§ B.3.2.2 Commercial General Liability

§ B.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits of not less than (\$) each occurrence, (\$) general aggregate, and (\$) aggregate for products-completed operations hazard, providing coverage for claims including

- .1 damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;
- .2 personal injury and advertising injury;
- .3 damages because of physical damage to or destruction of tangible property, including the loss of use of such property;
- .4 bodily injury or property damage arising out of completed operations; and
- .5 the Construction Manager's indemnity obligations under Section 3.18 of the General Conditions.

Precludes Certain Exclusions

§ B.3.2.2.2 The Construction Manager's Commercial General Liability policy under this Section B.3.2.2 shall not contain an exclusion or restriction of coverage for the following:

- .1 Claims by one insured against another insured, if the exclusion or restriction is based solely on the fact that the claimant is an insured, and there would otherwise be coverage for the claim.
 - .2 Claims for property damage to the Construction Manager's Work arising out of the products-completed operations hazard where the damaged Work or the Work out of which the damage arises was performed by a Subcontractor.
- 

Recommendations

For Construction Managers – Coordinate with Insurance Agent on Endorsement

For Owners- Require Proof that This Endorsement Is In Effect For the Project

4TH ANNUAL CONSTRUCTION KICKOFF



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CONSTRUCTION & SURETY OUTLOOK

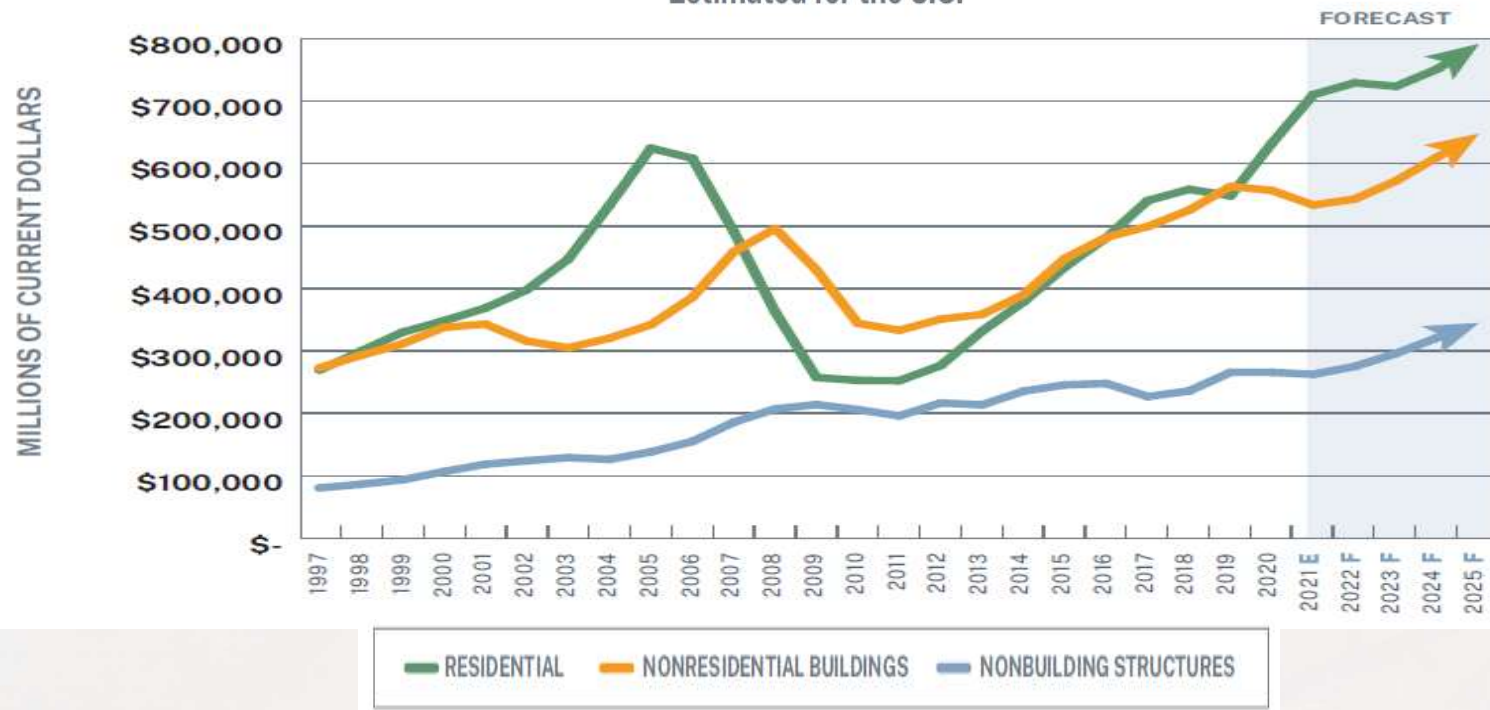


Bondthis.com

bonds in minutes, not days

Construction Outlook - National

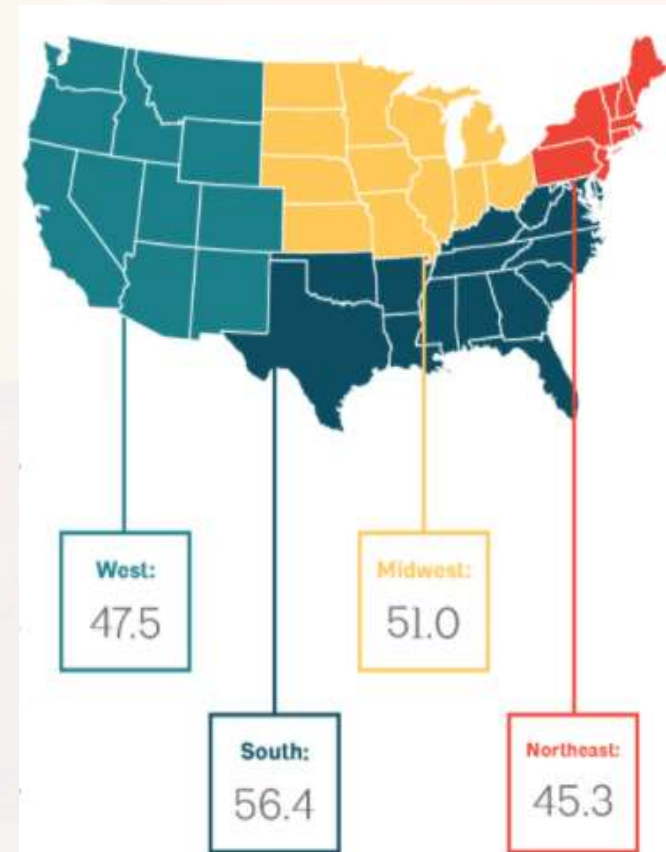
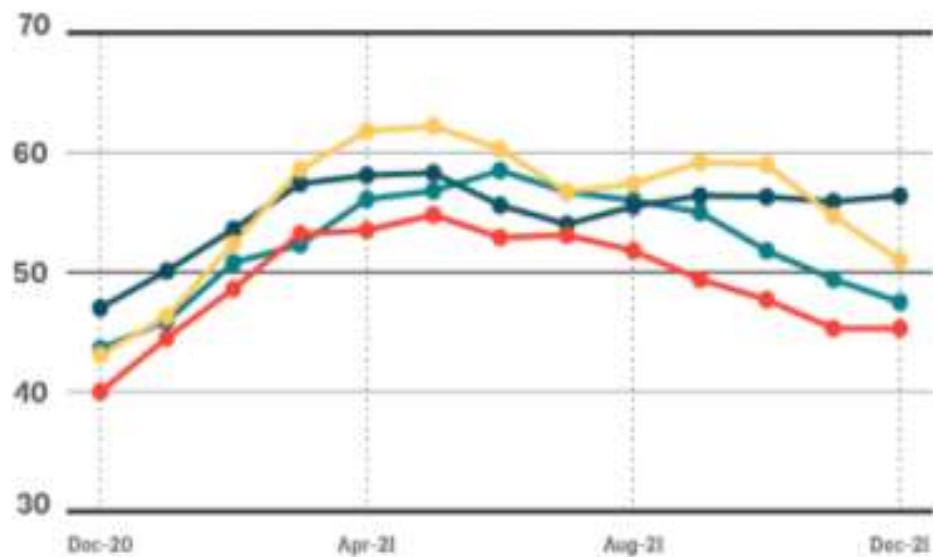
Total Construction Put in Place
Estimated for the U.S.



SOURCE: FMI FORECAST Q4 2021

Construction Outlook - ABI

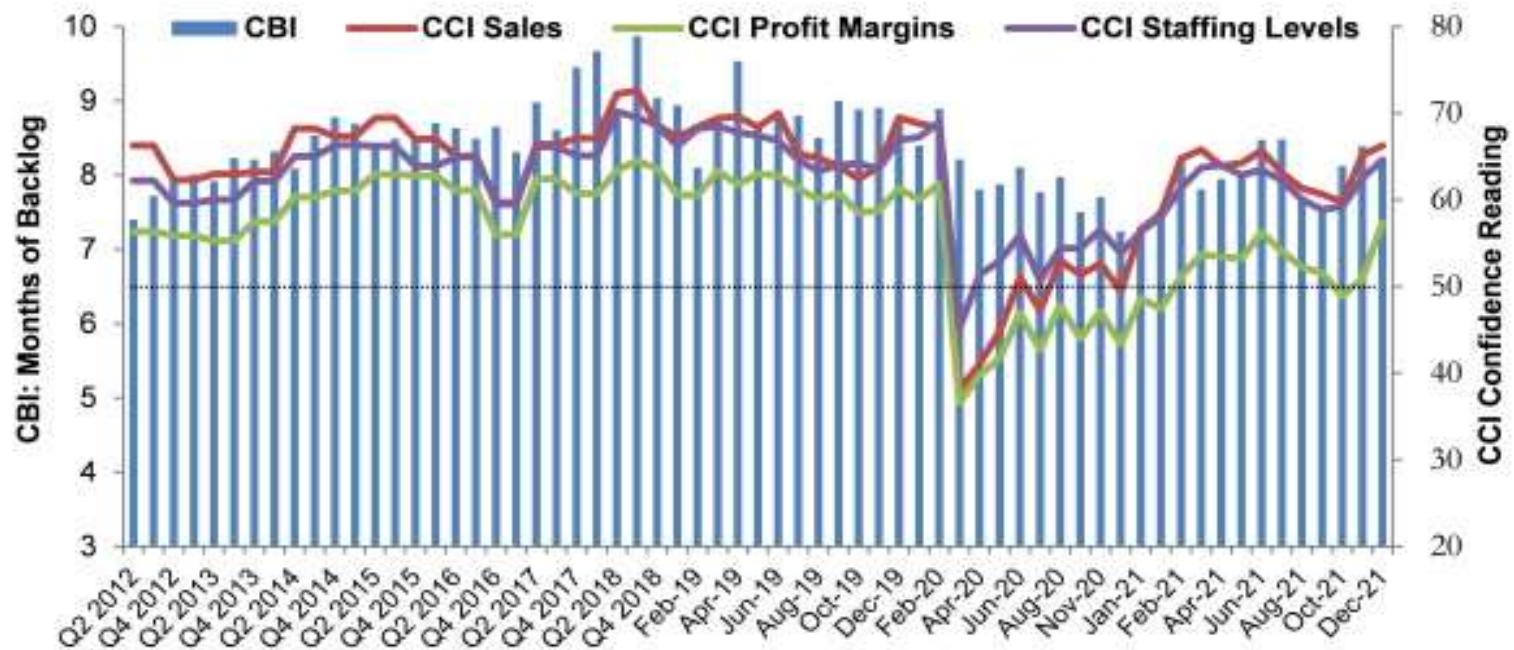
Architecture Billings Index (ABI)



Construction Outlook - Backlog Indicator



ABC Construction Backlog Indicator & Construction Confidence Index, 2012-Dec. 2021



©Associated Builders and Contractors, Construction Backlog Indicator, Construction Confidence Index

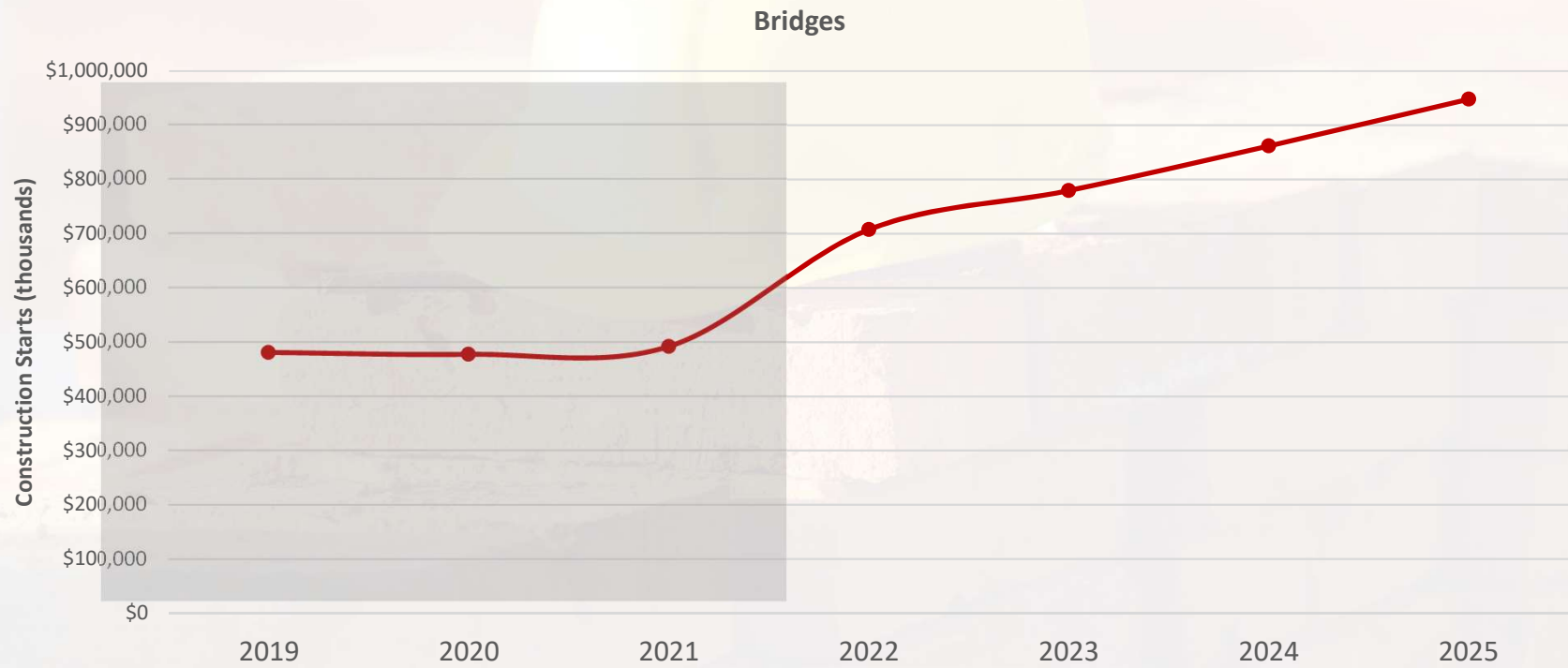
Heavy Highway Outlook 2022

Estimated Infrastructure funding allocations for Ohio and neighboring states

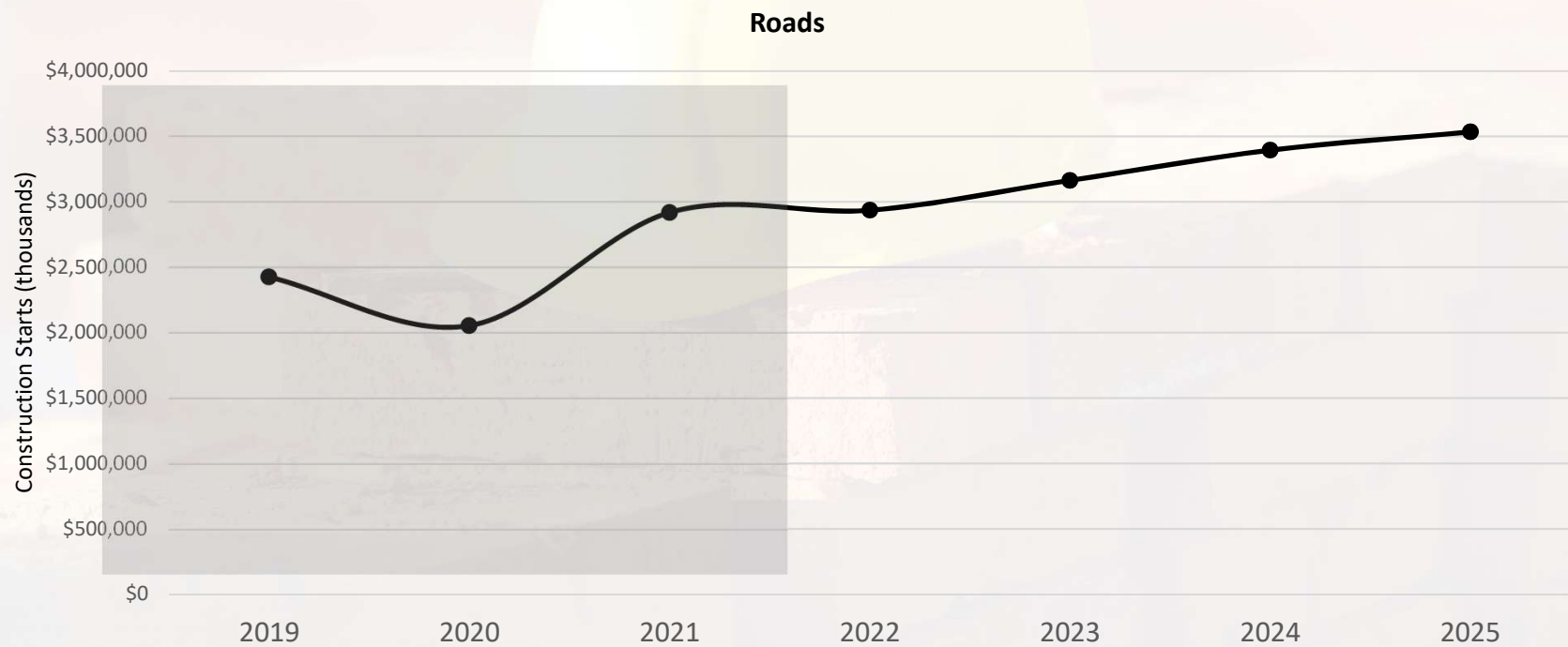
State	Total	Hwys.	Bridges	Public Trans.	Water	Other*
Ohio	\$12.8B	\$9.2B	\$483M	\$1.2B	\$1.4B	\$544M
Indiana	\$8.8B	\$6.6B	\$401M	\$680M	\$751M	\$410M
Kentucky	\$6.5B	\$4.6B	\$438M	\$391M	\$647M	\$410M
Michigan	\$10.8B	\$7.3B	\$563M	\$1.0B	\$1.3B	\$620M
Pennsylvania	\$17.8B	\$11.3B	\$1.6B	\$2.8B	\$1.4B	\$701M
West Virginia	\$4.4B	\$3.0B	\$506M	\$190M	\$487M	\$215M

*Other indicates funding for EV charging stations, broadband, airports, climate change, and cyberattack impacts.

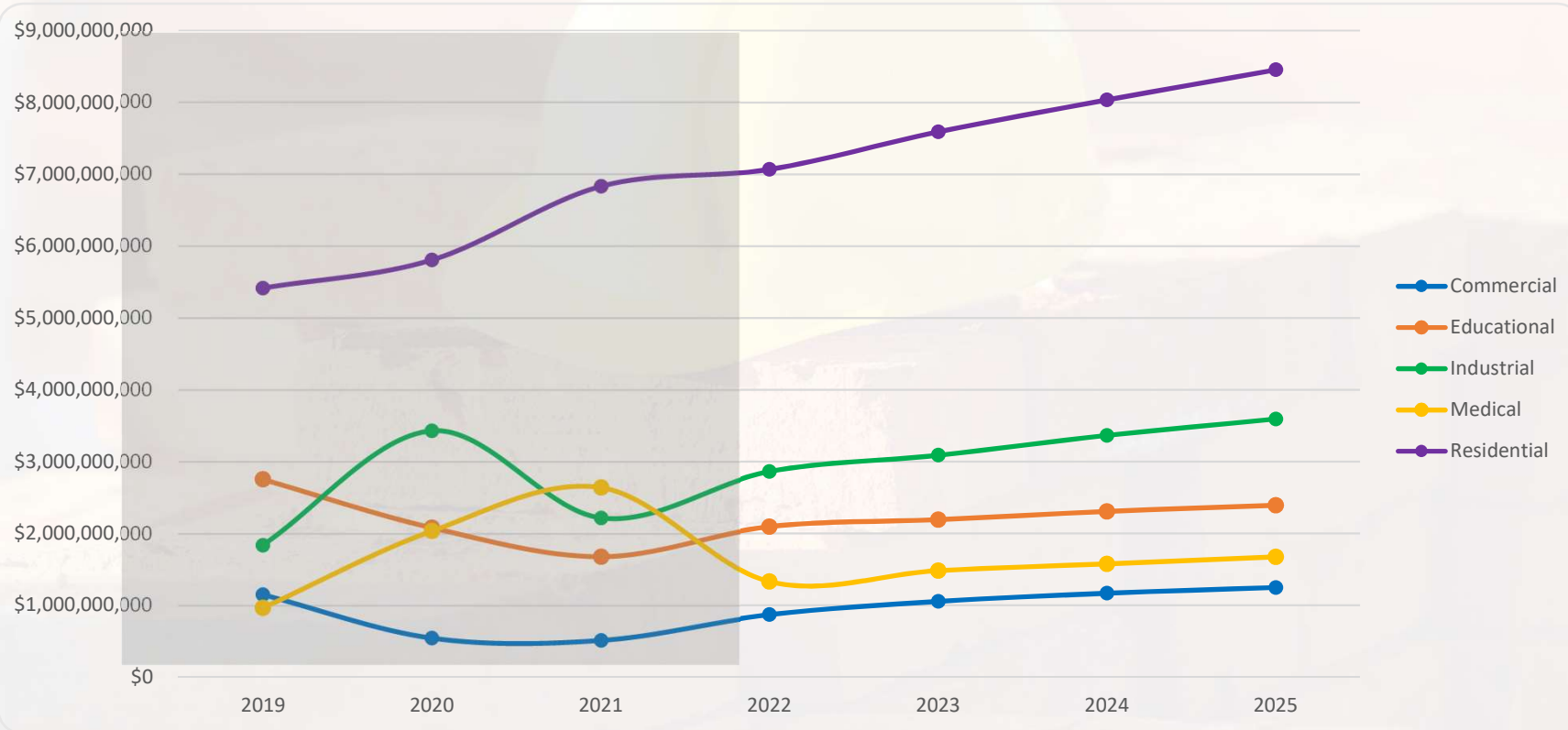
Forecasting - Ohio Construction Starts (HH)



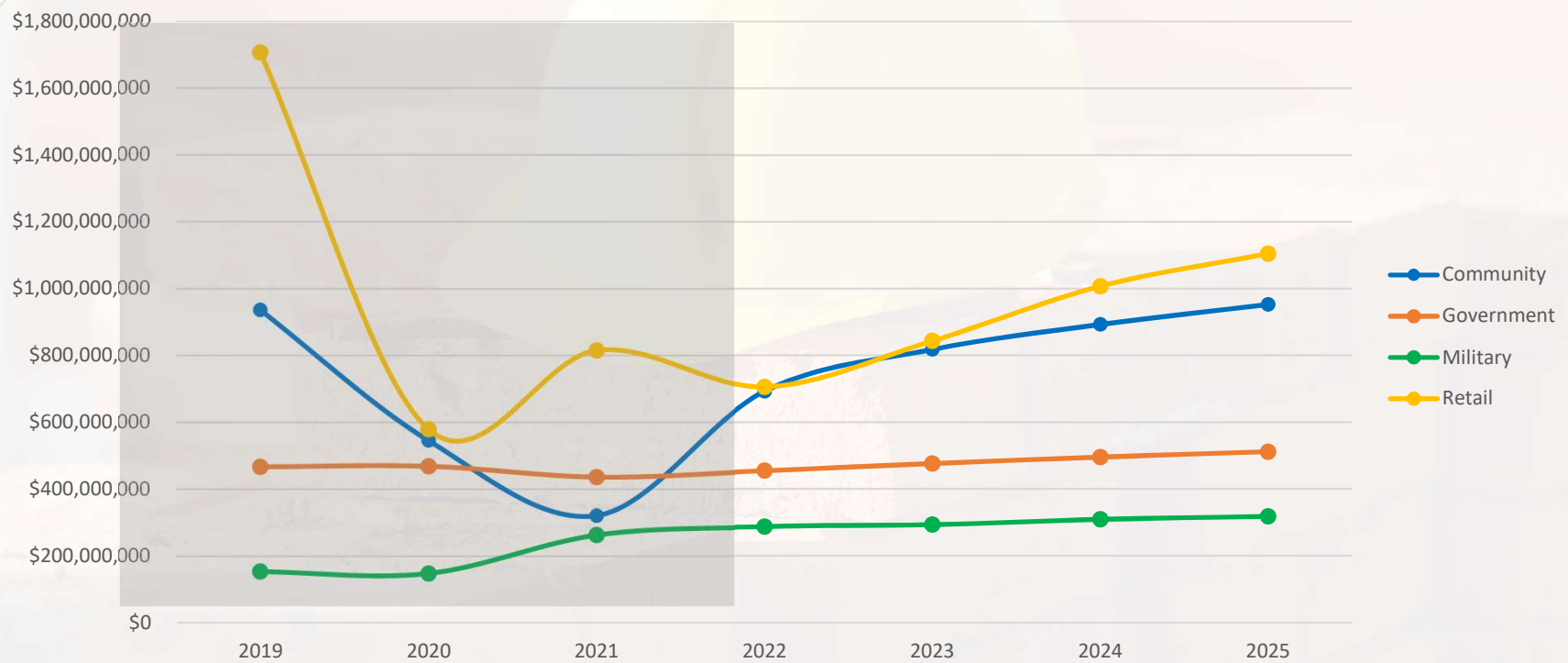
Forecasting - Ohio Construction Starts (HH)



Forecasting - Ohio Construction Starts (GC)



Forecasting - Ohio Construction Starts (GC)



Surety Outlook

The Surety & Fidelity Association of America Year to Date as of 9/30/2021

	Surety Co.	Direct Premium Written	Direct Losses Incurred	Direct Loss Ratio	Market Share
1	Travelers	\$717,854,463	\$71,292,287	10.4%	12.9%
2	Liberty	\$710,426,384	\$174,705,964	25.6%	12.8%
3	CNA	\$383,752,031	\$56,643,106	15.3%	6.9%
4	Zurich	\$357,874,234	\$31,568,813	8.1%	6.4%
5	Chubb	\$302,290,737	\$5,785,722	2.1%	5.4%

Top 5 Total Market Share:

44.4%

Surety - Underwriting Focus 2022

- Supply Chain
- Cost Escalations
- Contract Provisions
- Liquidity
- Backlog
- Labor

- Credit Tightening?

4TH ANNUAL CONSTRUCTION KICKOFF



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Overmyer Hall Associates - Bond Guys



4TH ANNUAL CONSTRUCTION KICKOFF



Melissa Dunkle, CPA
Principal



Scott D. Bechtel, CPA
Principal



Rea & associates
CPAs and business consultants

Agenda

- Update – What's Out & What's In
- Legislative Update
- Opportunities & Planning Considerations

What's "Out"

- Corporate income tax rate increase
- Individual ordinary income rate increase & changes to itemized deductions
- Capital gains & dividends rate increases
- Section 199A Qualified Business Income Deduction Changes
- Increases to Social Security Tax
- Changes to rules applicable to grantor trusts
- Repeal of like-kind exchange for those over \$400,000 of income
- Changes to "step-up" in basis of inherited assets
- Early sunset of increased estate and gift tax thresholds
- The short-lived billionaire's tax
- Carried interest charges

What's "In"

- 15% corporate (C-Corp) alternative minimum tax based on book income in excess of \$1 billion
- Expanded NIIT (3.8%) for individuals, estates & trusts
- Fully expense research & development costs (12/31/21 sunset)
- 1% excise tax on repurchase of corporate stock (publicly traded)
- Revised SALT cap – \$10,000 cap increased to \$80,000
- Surcharge on high income individuals, estates & trusts
 - 5% of taxpayer's MAGI in excess of \$10 million
 - Additional 3% of taxpayer's MAGI in excess of \$25 million
 - Kicks in at \$200/\$500K for estates & trusts

Legislative Update

- Tax Reconciliation Update:
 - Limited floor time early in the year
 - Voting Rights legislation
 - February 18 Continuing Resolution for Funding the Government
- Compromise between President Biden and Sen. Manchin?
- Numerous Effective Dates in BBB – 2021, 2022, 2023
 - Retroactive vs. Prospective
 - Changes to the bill to update/revise the dates – currently written as if it was passed by end of 2021
- Timing – With the further delays will considerations change as the November mid-term elections approach?

Opportunities & Planning Considerations

- Employee Retention Credit (ERC) – Payroll tax credits for 2020 & 2021
- Net Operating Losses – 2018–2020 eligible for carryback but 2021 can only be carried forward and limited to 80% of taxable income
- Excess Business Losses - \$500,000 limit and loss is carried forward
- 100% Deductible Meals for food or beverage provided by a restaurant in 2021 & 2021 are fully deductible (includes meal portion of per diem)
- Bonus Depreciation under current law
 - 100 % bonus depreciation available for assets acquired between September 27, 2017 and December 31, 2022
 - Scheduled decrease under current law:
 - 2023 – the rate drops to 80%
 - 2024 – the rate drops to 60%
 - 2025 – the rate drops to 40%
 - 2026 – the rate drops to 20%

4TH ANNUAL CONSTRUCTION KICKOFF



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