

What Does the Future Hold?

2022 Arizona Construction Economic Outlook and Strategies to Deal With Unprecedented Material Supply Issues

Alan A. Maguire
The Maguire Company

Michael J. Holden
Holden Willits PLC

Molly Carson
Ryan Companies



Economic Outlook

Current Conditions

Alan E. Maguire



The Maguire Company

March 2022

Economic Outlook

Total US Employment 1990 – 2021

Peak to Trough – Halfway Back



Economic Outlook

US Inflation

February 12 Report

- **12 Months through January 2022:** **7.5%**
- **Gasoline:** **40.0%**
- **Utility Gas (NG):** **23.9%**
- **Fuel Oil:** **46.5%**
- **Food at Home:** **7.4%**
- **Meat, Poultry, Fish, Eggs:** **12.2%**
- **Used Cars:** **40.5%**

INFLATION IS HERE!

Economic Outlook

US Inflation

February 12 Report

Cause

- **12 Months through January 2022:**

- **Gasoline:**

Policy

- **Utility Gas (NG):**

Policy

- **Fuel Oil:**

Policy

- **Food at Home:**

Commodities

- **Meat, Poultry, Fish, Eggs:**

Commodities

- **Used Cars:**

Supply Chain

US Economic Outlook

Ken Simonson Chief Economist, AGC of America ken.simonson@agc.org

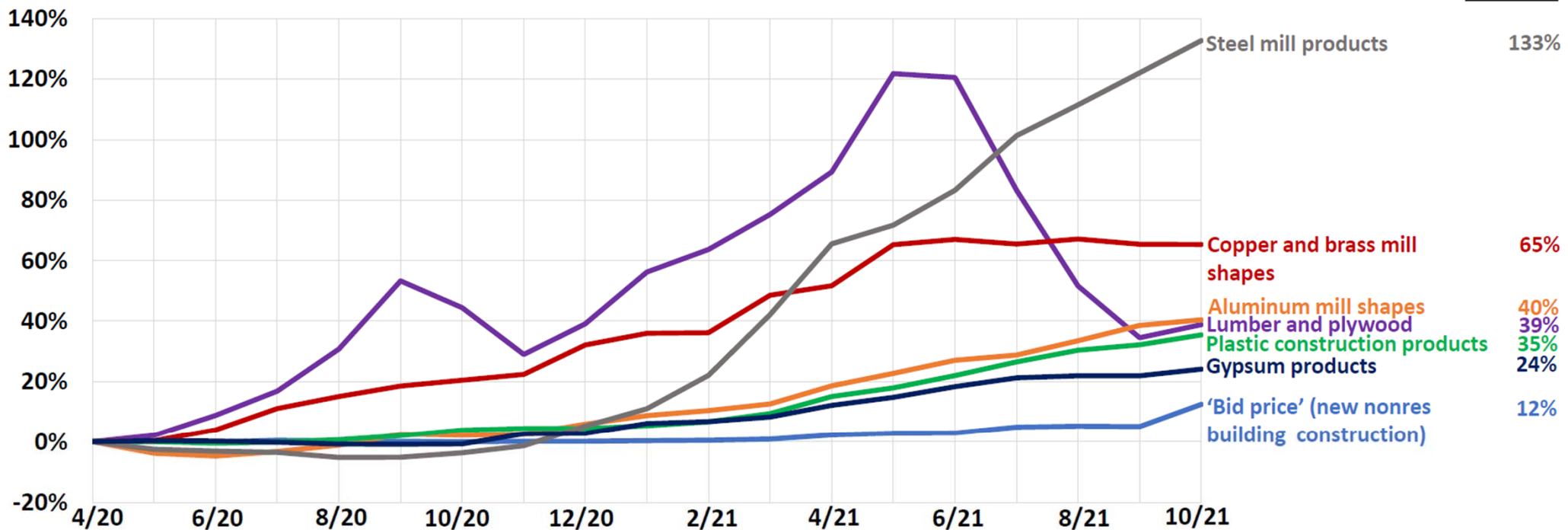


AGC
THE CONSTRUCTION
ASSOCIATION

PPIs for construction and selected inputs

cumulative change in PPIs, April 2020 – October 2021 (not seasonally adjusted)

% change
Apr 2020-
Oct 2021:



US Economic Outlook

Ken Simonson Chief Economist, AGC of America ken.simonson@agc.org

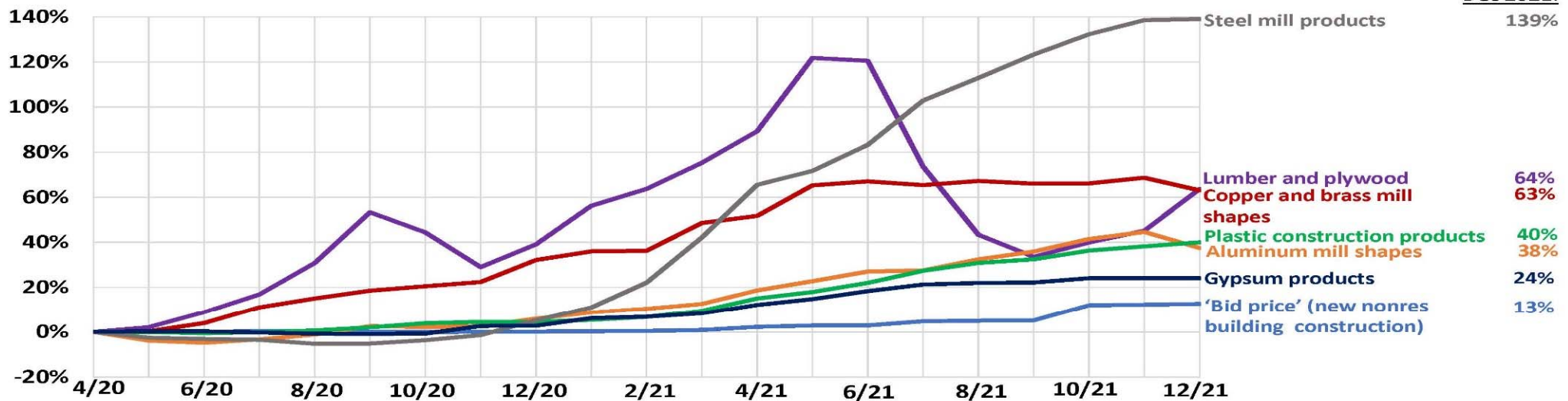
PPIs for construction bid prices and selected inputs

cumulative change in PPIs, April 2020 – December 2021 (not seasonally adjusted)



AGC
THE CONSTRUCTION
ASSOCIATION

% change
Apr 2020-
Dec 2021:
139%



Economic Outlook

US Consumer Confidence

January 25 2022

- **Overall** **111.1**
DOWN from 115.2 in December
- **Present Situation** **144.1**
DOWN from 144.8 in December
- **Expectations** **87.5**
DOWN from 95.4 in December

Economic Outlook

US Consumer Confidence

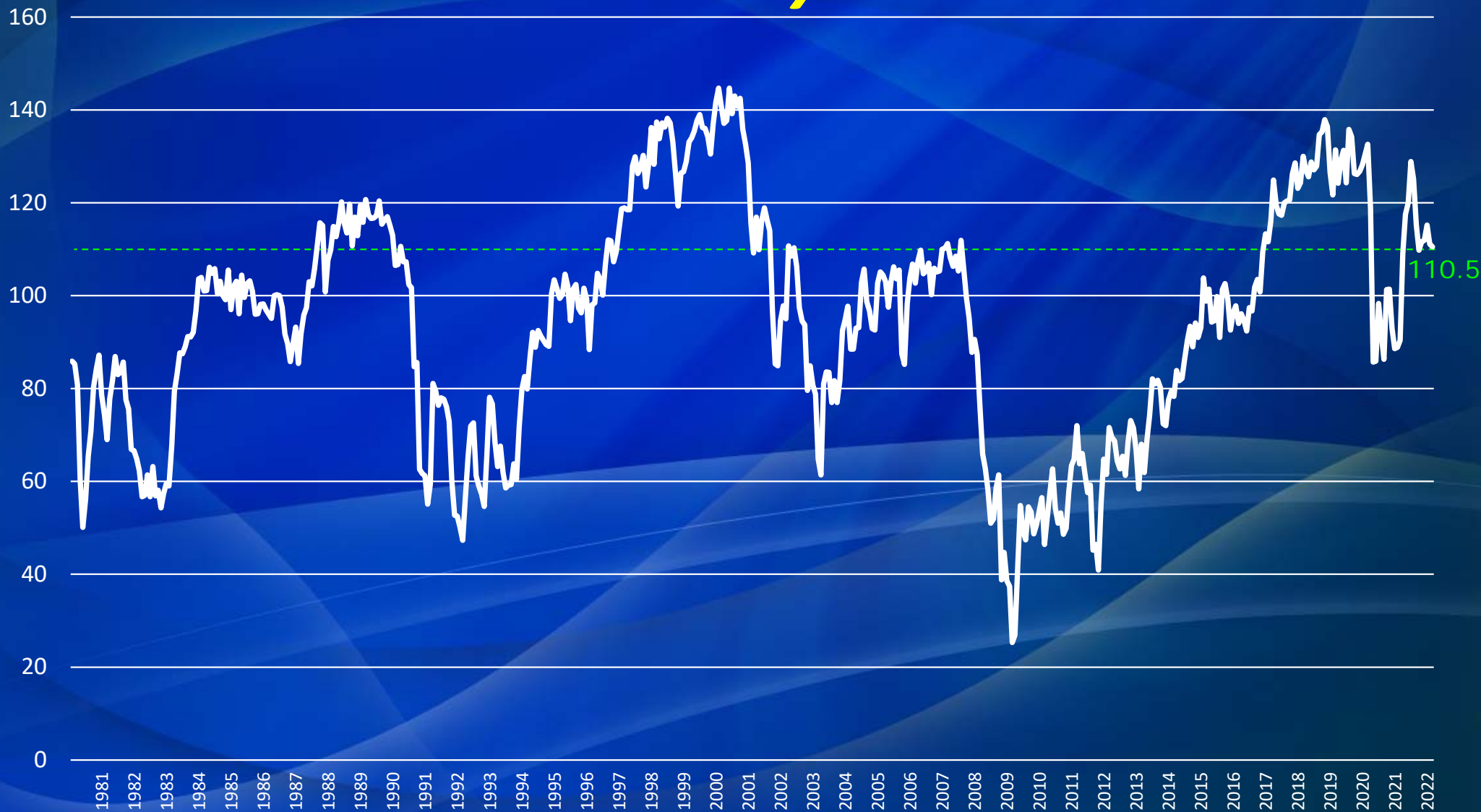
February 22 2022

- **Overall** **110.5**
DOWN from 111.1 in January
- **Present Situation** **145.1**
UP from 144.8 in January
- **Expectations** **87.5**
DOWN from 88.8 in January

Economic Outlook

US Consumer Confidence

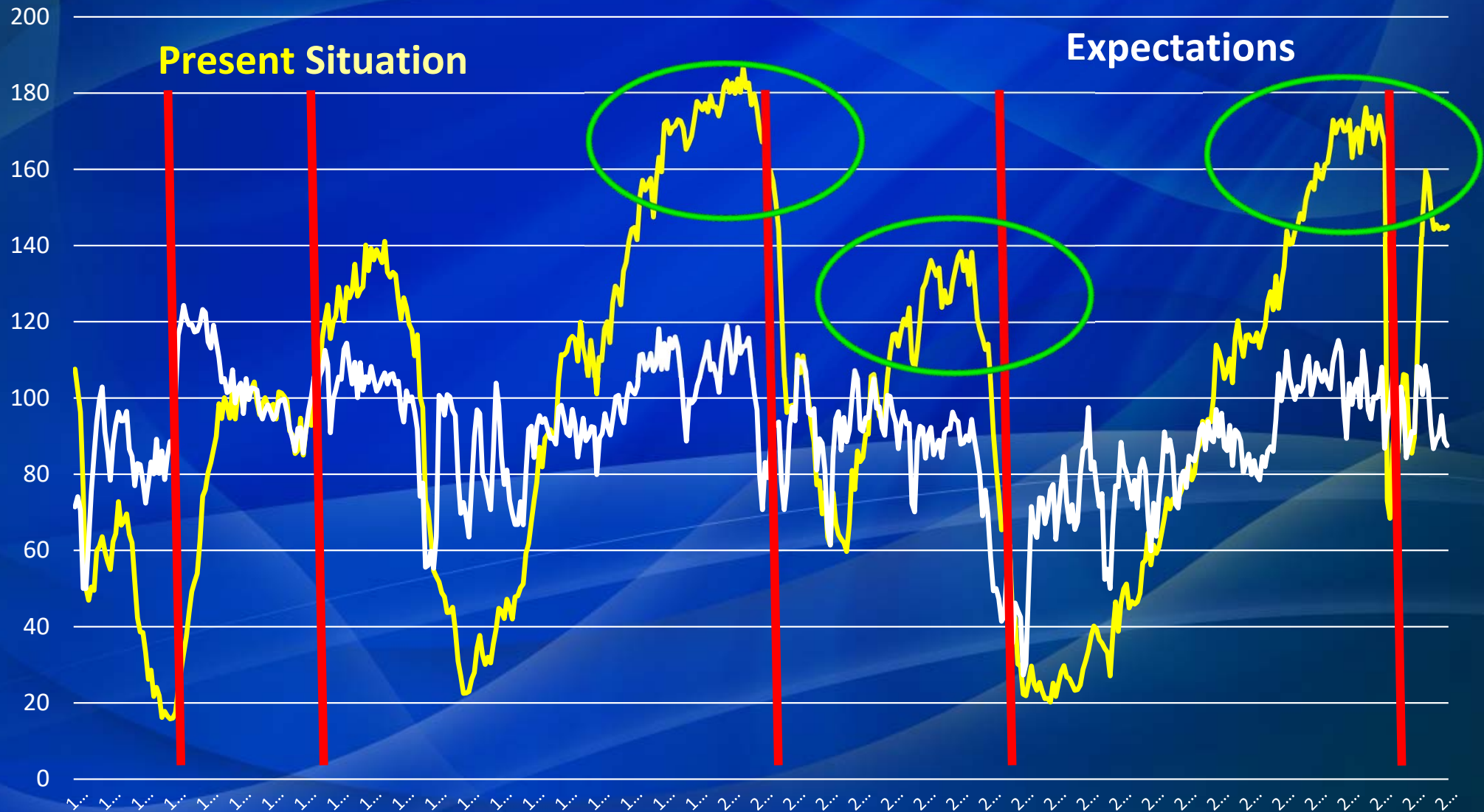
1980 – February 22 2022



Economic Outlook

US Consumer Confidence

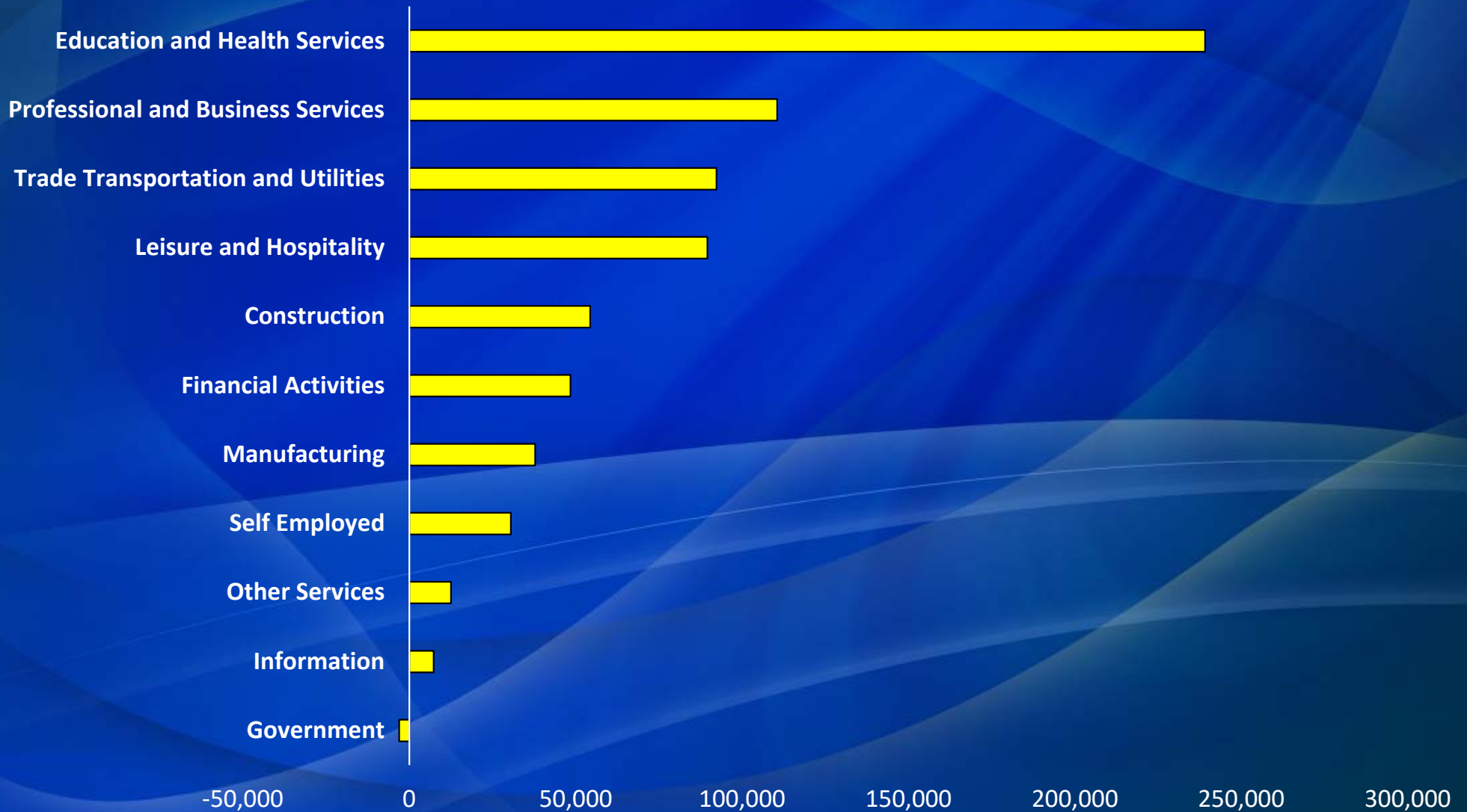
1980 – February 22 2022



Economic Outlook

AZ Employment Growth

2020 to 2030

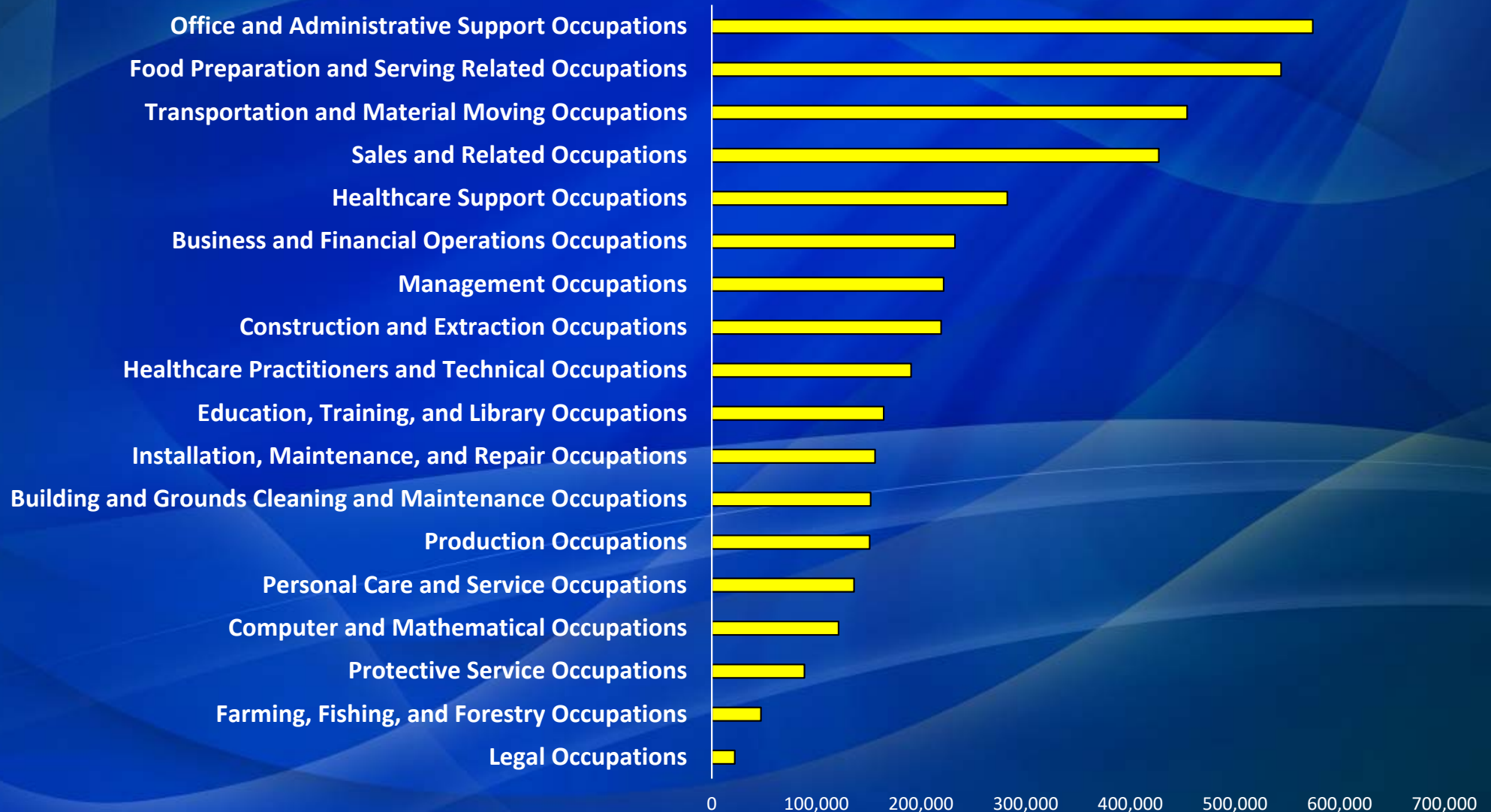


Source: US BLS

Economic Outlook

AZ Occupations Openings

2020 to 2030



Source: US BLS

Economic Outlook

"Where are we Going?"

Blue Chip Economic Forecast

Arizona

March Update

2022

2023

- **Personal Income**_(current) **4.8%** **5.5%**
- **Retail Sales** **5.4%** **4.7%**
- **Wage & Salary Employ.** **4.0%** **3.6%**
- **Population Growth** **1.6%** **1.6%**
- **Single Family Permits** **5.9%** **3.8%**

Economic Outlook

Arizona Construction Outlook

Arizona

- ***3.4 mm Square Foot Industrial Complex*** 2/8/2022
- ***Kohler – 1 mm Square Foot in Casa Grande*** 2/17/2022
- ***Sunlit – \$100 M Facility*** March 2022
- ***Much more to come in the Pipeline!***
- ***GPEC – 19 Industrial Project Inquiries in FY22*** 3/9/2022



Economic Outlook

Arizona Workforce Challenges

Arizona

- *The best of times; the worst of times*
- *Top Ten High Schools vs.*
Dropping NAEP Scores (National Assessment of Education Progress)
- *Core Academic Deficiencies*
- *High Levels of “Remediation” in Comm. Colleges*
- *Too much focus is too late*



Economic Outlook

Arizona Workforce Challenges

Arizona –Opportunities

- ***Robust Community College System***
 - *Facing Key Challenges*
- ***Increasing parental awareness and engagement***
- ***Proliferation of Good Quality Charter Schools***
- ***Maricopa County is Very Attractive to Job Seekers***



Economic Outlook

Pertinent Observations

*The **Bad** News*

- *Extreme (Excessive) Federal Stimulus is Wearing Off*
- *Inflation is Here to Stay*
 - *Much is (Bad) Policy Driven*
- *Federal Reserve is Wayyyyyy Behind the Curve*



Economic Outlook

Pertinent Observations

The Good News

- ***Extremely Strong Coming into Pandemic***
- ***Job Creation Continues to Be Strong***
- ***Opportunity for Constructive Policy Response***
 - ✓ ***Infrastructure***
 - ✓ ***Manufacturing***



Economic Outlook

Pertinent Observations

Takeaways

- *Inflation Creates Uncertainty*
- *Calendar 2022 should remain Strong*
- *Calendar 2013 could / will Weaken*
- *Contracts will Continue to be Hard to Write*
 - *Risks: Supply Chains, Labor, Commodity Inflation, ...*
- *But, Continuing Strong Demand – In Migration*



Economic Outlook

Pertinent Observations

The Best News – We are in Arizona

- ***Continuing Job Creation***
- ***Generally Constructive Policy Environment***
 - Reasonable Regulatory Climate (*limited authority*)
 - Reasonable Tax Climate (*especially compared to California*)
- ***Growth Brings Opportunity for Improvement***
- ***Right to Work State***
- ***AND, We are NOT California!***



Economic Outlook

Current Conditions

Alan E. Maguire

Questions?



The Maguire Company

March 2022

Price Escalation and Material Shortages

Which party in a lump sum of GMP contract bears the risk?

Which Party Bears the Risk?

SHORT ANSWER: Material cost and supply issues are traditionally considered a bargained-for risk in fixed price and GMP contracts

Party procuring the materials—general contractor or a downstream subcontractor or supplier—usually bears the risk of material price escalation and supply delays

Which Party Bears the Risk?

IMPORTANT EXCEPTION: unless the price escalation or material shortage is caused by a condition that is otherwise addressed in the contract

Which Party Bears the Risk?

- **Standard form contracts generally provide very limited avenues for relief from price escalation**
- **But delays in material deliveries more often addressed**

AIA A201-2017 General Conditions

§ 8.3 DELAYS AND EXTENSIONS OF TIME

§ 8.3.1 If the **Contractor is delayed** at any time in the commencement or progress of the Work by . . . labor disputes, fire, **unusual delay in deliveries**, unavoidable casualties or **other causes beyond the Contractor's control**; or by delay authorized by the Owner pending mediation and arbitration; or **by other causes that the Architect determines may justify delay**, then the Contract Time shall be extended by Change Order for such reasonable time as the Architect may determine.

AIA A201-2017 General Conditions

§ 8.3 DELAYS AND EXTENSIONS OF TIME

§ 8.3.1 If the **Contractor is delayed** at any time in the commencement or progress of the Work by . . . labor disputes, fire, **unusual delay in deliveries**, unavoidable casualties or **other causes beyond the Contractor's control**; or by delay authorized by the Owner pending mediation and arbitration; or **by other causes that the Architect determines may justify delay**, then the Contract Time shall be extended by Change Order for such reasonable time as the Architect may determine.

AIA A201-2017 General Conditions

If a Force Majeure Event exists, then the
“Contract Time shall be extended by Change
Order” for a reasonable time

Allocating the Risk: Material Suppliers

- **Now very common for Material Suppliers to simply not provide price quotes for future supply of materials or refuse to hold pricing for more than 24 hours**
- **Material Suppliers rescinding prior commitments and prioritizing projects**

Allocating the Risk: GCs and Subs

Contractors and Subcontractors must attempt to address RISK during bid process or to PASS THE RISK DOWNSTREAM during contracting process

For Negotiated Contracts: TALK TO THE UPCHAIN PARTY about potential risks BEFORE signing Contract or Subcontract

ConsensusDocs 200.1 Amendment No. 1

GC Amendment entitled “Potentially Time and Price-Impacted Materials”

ConsensusDocs 200.1 Amendment No. 1

Purpose of Amendment explained in paragraph 1

- “certain markets providing essential materials . . . are experiencing or are expected to experience significant, industry-wide economic fluctuations
- This “may impact price, availability and delivery time frames”
- Amendment “provides a fair allocation of risk of such market conditions”

ConsensusDocs 200.1 Amendment No. 1

Establish baseline pricing for specifically listed materials

Potentially Time and Price-Impacted Material:

Baseline Price: \$/ (unit)

Pricing Method:

Owner or Contractor entitled to Equitable Adjustment if a listed material “experiences and increase or decrease in its Baseline Price”

ConsensusDocs 200.1 Amendment No. 1

Key Selling Point:

Either party is entitled to an equitable adjustment for an increase or decrease in this baseline price subject to timely notice

Parties agree to SHARE the risk

ConsensusDocs 200.1 Amendment No. 1

Includes a CAP on percentage increase

“The Contract Price shall not be adjusted by more than ____% of the original Contract Price for the aggregate of the increases or decreases in Baseline Price”

Assists Owners with Lenders worried about open-ended risk

ConsensusDocs 200.1 Amendment No. 1

ConsensusDocs 200.1 provides Contractor is entitled to time extension if delays in delivery or unavailability of a listed material is “beyond the control of or **without the fault of the Contractor, its Subcontractors and Material Suppliers”**

Without the Fault of Contractor



ConsensusDocs 200.1 Amendment No. 1

ConsensusDocs 200.1 also includes limitation of liability:

“Contractor shall not be liable to the Owner for any expenses, losses or damages arising from a delay in the delivery of a LISTED MATERIAL not the fault of the Contractor, its Subcontractors and Material Suppliers”

Allocating the Risk???

If unable to negotiate any risk-shifting language

- **Require subcontractors to purchase materials early**
- **Include shortened time frame for the bid to remain open, lessening the time in which a price shift may occur**
- **Include a contingency in bid price**
- **Attempt to pass the risk to downstream parties**
 - **Accelerate “buyout process” with subcontractors**
 - **Getting binding quotes from material suppliers**