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IN THE UNITED STATES DISTRICT COURT

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FOR THE DISTRICT OF ARIZONA

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Travelers Casualty and Surety Company of
America,

No. CV-12-00390-PHX-FJM

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Plaintiff,

ORDER

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vs.

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W.P. Rowland Constructors Corporation,
et al.,

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Defendants.

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The court has before it defendants’ motion for reconsideration (doc. 110). Defendants ask us to reconsider the part of our order dated May 22, 2013 that grants Traveler’s motion for summary judgment on Count 2 in the complaint, seeking specific performance of defendants’ promise to post collateral. We ordered defendants to provide Travelers with collateral in the total amount of \$1,303,088 to cover Travelers potential financial exposure under the Bonds. Defendants now complain that this amount mistakenly included the \$626,411.34 judgment that we awarded with respect to Count 1, thereby overcompensating Travelers for potential pending claims. We disagree.

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Travelers has a total bond exposure of more than \$34 million. It has submitted evidence that it is currently facing in excess of \$516,000 in pending payment bond claims by subcontractors and suppliers. PSOF ¶ 24 (doc. 82). Travelers also faces potential

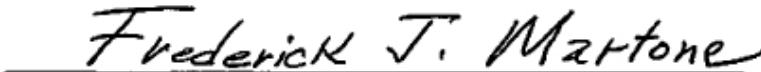
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1 performance bond exposure in excess of \$2 million in claimed damages involving a
2 construction defect lawsuit filed on the Limestone Project. PSOF ¶ 21. Defendants agreed
3 “to deposit with [Travelers] upon demand, an amount determined by [Travelers] sufficient
4 to discharge any Loss or anticipated Loss.” Indemnity Agreement ¶ 5. Travelers has
5 adequately demonstrated anticipated Losses in excess of \$1,303,088, the collateral amount
6 awarded.

7 **IT IS ORDERED DENYING** defendants’ motion for reconsideration (doc. 110).

8 DATED this 11th day of June, 2013.

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11 **Frederick J. Martone**
12 **Senior United States District Judge**
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