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9 Attorneys for ANDERSON BURTON CONSTRUCTION,
10 INC. and WESTERN SURETY COMPANY

11 **UNITED STATES DISTRICT COURT**
12 **EASTERN DISTRICT OF CALIFORNIA**

13 UNITED STATES OF AMERICA, for
14 the use and benefit of BCP
15 MECHANICAL, LLC, a California
16 limited liability company,

17 Plaintiff,

18 v.

19 ANDERSON BURTON
20 CONSTRUCTION, INC., a California
21 corporation; WESTERN SURETY
22 COMPANY, a South Dakota
23 corporation,

24 Defendants.

Case No. 2:20-cv-01401-TLN-KJN
*Assigned to Honorable Judge
Troy L. Nunley*

**STIPULATION TO AMEND
SCHEDULING ORDER AND
ORDER THEREON**

25 **AND RELATED CROSS-ACTION.**

26 Pursuant to Federal Rules of Civil Procedure, Rule 16(b)(4), Plaintiff and
27 Cross-Defendant BCP MECHANICAL, LLC (“BCP”), Defendant and Cross-
28 Complainant ANDERSON BURTON CONSTRUCTION, INC., (“ABCI”) and
Defendant WESTERN SURETY COMPANY (“Western Surety”; collectively the
“Parties”), by and through their respective counsel of record, hereby stipulate as
follows:

1 WHEREAS on July 10, 2020, BCP filed the instant action for Recovery on
2 Miller Act Payment Bond, Breach of Contract, Quantum Meruit and Open Book
3 Account related to a federal construction project for the U.S. Army Corps of
4 Engineers (the “Action”);

5 WHEREAS on September 22, 2020, ABCI filed a Cross-Claim against BCP
6 for Breach of Written Contract (the “Cross-Claim”);

7 WHEREAS on August 28, 2020, BCP filed a separate action against ABCI and
8 Western Surety in the Superior Court for the County of San Luis Obispo, Case No.
9 20CV-0388, for Recovery on Payment Bond, Breach of Written Contract, Quantum
10 Meruit, and Open Book Account on five (5) separate construction projects (the “State
11 Court Action”);

12 WHEREAS on July 13, 2020, the Court issued an Initial Pretrial Scheduling
13 Order (“Scheduling Order”) in the instant Action, setting forth dates for close of
14 discovery, expert designation, supplemental expert designations, etc.;

15 WHEREAS on August 10, 2021, the Parties filed a Stipulation to Amend the
16 Scheduling Order to allow the Parties additional time to mediate the claims in the
17 instant Action, the Cross-Claim and the State Court Action;

18 WHEREAS on August 11, 2021, the Court issued an order continuing dates in
19 the Scheduling Order pursuant to the Parties’ Stipulation;

20 WHEREAS on September 22, 2021, the Parties attempted to reach a global
21 settlement of the instant Action, the Cross-Claim and the State Court action through
22 mediation before retired Federal District Court Judge Oliver Wanger. The Parties,
23 however, did not settle at mediation, and now believe that additional discovery is
24 necessary before settlement is possible;

25 WHEREAS the Parties wish to continue to attempt to reach global resolution
26 of all claims between them, , but due to the postponement of depositions and further
27 written discovery in favor of mediation, coupled with the impact to schedules and
28 delays caused by the continuing pandemic, the Parties seek additional time to engage

1 in discovery and, thereafter, attempt again to reach a global settlement.

2 WHEREAS the Parties have agreed to a continuance of the Scheduling Order
3 dates to allow additional time to attempt to reach a global settlement of the instant
4 Action, the Cross-Claim and the State Court Action.

5 **STIPULATION**

6 The Parties hereby stipulate to amend the Scheduling Order as follows:


7

Description	Current Date	Proposed Dates
Close of Non-Expert Discovery	November 22, 2021	March 18, 2022
Expert Witness Designation	January 21, 2022	May 23, 2022
Supplemental Expert Designation	February 22, 2022	June 22, 2022
Supplemental Disclosures & Responses	April 22, 2022	August 22, 2022
Dispositive Motion Filing Date	May 23, 2022	September 23, 2022
Notice of Trial Readiness	30 days after ruling on last filed dispositive motion or 120 days from close of discovery	Same

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18 Dated: November ____, 2021

ATKINSON, ANDELSON, LOYA, RUUD & ROMO

19
20 By: 
Anthony P. Niccoli
Attorneys for ANDERSON BURTON
CONSTRUCTION, INC. and WESTERN
SURETY COMPANY

21
22
23 Dated: November 3, 2021

COLEMAN & HOROWITT, LLP

24
25 By: 
Steven C. Clark
Sherrie M. Flynn
Attorneys for BCP MECHANICAL, LLC

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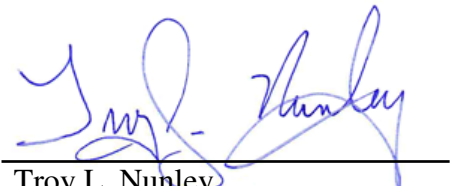
ORDER

The Parties having stipulated and good cause appearing therefor,
IT IS SO ORDERED that the dates in the Initial Pretrial Scheduling

Order are amended as follows:

Description	Amended Dates
Close of Non-Expert Discovery	March 18, 2022
Expert Witness Designation	May 23, 2022
Supplemental Expert Designation	June 22, 2022
Supplemental Disclosures & Responses	August 22, 2022
Dispositive Motion Filing Date	September 23, 2022
Notice of Trial Readiness	30 days after ruling on last filed dispositive motion or 120 days from close of discovery

Dated: November 8, 2021



Troy L. Nunley
United States District Judge