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6 Attorneys for Cross-Defendant  
 7 BCP MECHANICAL, LLC

8  
 9 UNITED STATES DISTRICT COURT  
 10 EASTERN DISTRICT OF CALIFORNIA  
 11

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

15 Use-Plaintiff,

16 v.

17 ANDERSON BURTON  
 CONSTRUCTION, INC., a California  
 18 corporation; WESTERN SURETY  
 COMPANY, a South Dakota  
 19 corporation,

20 Defendants.

21 AND RELATED CROSS-ACTION.  
 22

CASE NO. 2:20-cv-01401-TLN-KJN

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

Complaint Filed: July 10, 2020  
 Cross-Claim Filed: September 22, 2020

Judge: Hon. Troy L. Nunley  
 Trial Date: None

23 Pursuant to Federal Rules of Civil Procedure, Rule 16(b)(4), Plaintiff and  
 24 Cross-Defendant BCP MECHANICAL, LLC (“BCP”), Defendant and Cross-  
 25 Complainant ANDERSON BURTON CONSTRUCTION, INC., (“ABCI”) and  
 26 Defendant WESTERN SURETY COMPANY (“Western Surety”; collectively the  
 27 “Parties”), by and through their respective counsel of record, hereby stipulate as  
 28 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  
8 and Western Surety in the Superior Court for the County of San Luis Obispo, Case  
9 No. 20CV-0388, for Recovery on Payment Bond, Breach of Written Contract,  
10 Quantum Meruit, and Open Book Account on five (5) separate construction projects  
11 (the “State 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 on December 10, 2021, Plaintiff BCP filed a Motion to Amend  
26 the Scheduling Order and for Leave to File Amended Complaint (“Motion”; Doc.  
27 23). On December 30, 2021, Defendant ABCI filed its Opposition to the Motion  
28 (Doc. 24). On January 3, 2022, the Court issued a Minute Order, vacating the hearing

1 on the Motion, and took the Motion under submission without oral argument. The  
2 Court has not issued an order on the Motion and non-expert discovery is currently  
3 set to close on March 18, 2022.

4 WHEREAS the Parties agree it would be inefficient to engage in further  
5 discovery until after the Court issues its order on the Motion, and thus, seek to amend  
6 the Scheduling Order to allow for additional time to engage in discovery.

7 WHEREAS the Parties have agreed to a continuance of the Scheduling Order  
8 dates to allow the Parties adequate time to engage in discovery after the Court issues  
9 its order.

10 **STIPULATION**

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

Description	Current Date	Proposed Dates
Close of Non-Expert Discovery	March 18, 2022	The later of June 16, 2022, and 90 days after order on the Motion
Expert Witness Designation	May 23, 2022	The later of August 22, 2022, and 90 days after order on the Motion
Supplemental Expert Designation	June 22, 2022	The later of September 20, 2022, and 90 days after order on the Motion
Supplemental Disclosures & Responses	August 22, 2022	The later of November 21, 2022 and 90 days after order on the Motion
Dispositive Motion Filing Date	September 23, 2022	The later of December 22, 2022 and 90 days after order on the Motion
Notice of Trial Readiness	30 days after ruling on last filed dispositive motion or 120 days from close of discovery	Same



1 **ORDER**

2 The Parties having stipulated and good cause appearing therefor,

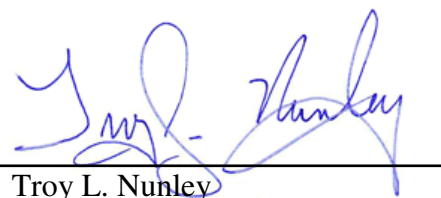
3 **IT IS SO ORDERED** that the Scheduling Order dates are amended as

4 follows:

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Description	Current Date	New Dates
6 Close of Non-Expert 7 Discovery	March 18, 2022	The later of June 16, 2022, and 90 days after order on the Motion
8 Expert Witness 9 Designation	May 23, 2022	The later of August 22, 2022, and 90 days after order on the Motion
10 Supplemental Expert 11 Designation	June 22, 2022	The later of September 20, 2022, and 90 days after order on the Motion
12 Supplemental 13 Disclosures & Responses	August 22, 2022	The later of November 21, 2022 and 90 days after order on the Motion
14 Dispositive Motion 15 Filing Date	September 23, 2022	The later of December 22, 2022 and 90 days after order on the Motion
16 Notice of Trial Readiness	30 days after ruling on 17 last filed dispositive 18 motion or 120 days from 19 close of discovery	Same

20  
21 Dated: March 2, 2022

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23 

24 Troy L. Nunley  
25 United States District Judge