RECOMMENDED ACTION AND JUSTIFICATION:

Approve a Side Letter of Agreement to the Memoranda of Understanding (MOU) with the Deputy Sheriffs' Association (DSA) and the Sheriffs' Management Association (SMA) relative to the vacation payout issue. During negotiations with the DSA and SMA, the County and the Associations agreed to a vacation cap of 360 hours for employees in each unit; previously there was no cap and employees were allowed to accrue an unlimited number of vacation hours, which created a liability for the County. Once the cap was agreed to, language was incorporated in the MOUs that stated that employees with vacation hours in excess of 300 as of January 1, 2008 would have the ability to have the excess hours paid out. The employees had a couple of options to choose from on how they wanted their vacation paid out. The agreement, however, was conditioned on receiving a legal opinion from a tax attorney to determine whether the options conformed to the applicable tax laws and regulations. The attorney's opinion was received and the options that were agreed upon between the County and the DSA and SMA were not allowed under the law and the opinion further provided advice on how the vacation payout could be accomplished.

Representatives from the County and DSA and SMA met and agreed upon amended language to resolve the vacation payout issue pursuant to the tax attorney's advice. This agreement between the parties is contained in the Side Letter of Agreement.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

The Board of Supervisors approved MOUs with the DSA and SMA at their meeting of February 12, 2008. At that time, the tax attorney had not yet provided an opinion relative to the vacation payout issue.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

A negative action would result in the vacation payout issue still being unresolved.
TO: RICHARD J. BENSON, CAO
FROM: MARGIE WILLIAMS, Clerk of the Board
SUBJECT: Approve a Side Letter of Agreement to the Memoranda of Understanding with the Deputy Sheriffs’ Association and the Sheriffs’ Management Association Relative to the Vacation Pay-out Issue

RESOLUTION 08-131

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA

ADOPTED THIS Order on April 1, 2008

ACTION AND VOTE:

Approve a Side Letter of Agreement to the Memoranda of Understanding with the Deputy Sheriffs’ Association and the Sheriffs’ Management Association Relative to the Vacation Pay-out Issue (County Administrative Officer/Personnel/Risk Manager)

**BOARD ACTION:** Supervisor Bibby advised that she excused herself from these labor negotiations due to possible compaction issues because her spouse is in the Sheriffs’ Management Association and she has a relative in the Deputy Sheriffs’ Association and since this item is a part of the labor negotiations, she excused herself from the meeting at 3:49 p.m. Discussion was held with Rick Benson. (M)Pickard, (S)Aborn, Res. 08-131 was adopted approving the Side Letters of Agreement/Ayes: Aborn, Turpin, Fritz, Pickard; Excused: Bibby.

Cc: Chris Elbie, Auditor
    Gail Neal, Chief Probation Officer
    Brian Muller, Sheriff
    File
Side Letter of Agreement to
Memorandum of Understanding (10/1/07-9/30/09)
Between County of Mariposa and Sheriffs’ Management Association (SMA)

Employees having vacation hours in excess of 300 as of 1/1/08 shall have the following options for payment for those vacation hours:

Option 1: Cash Out Option. Employee electing this option will have their excess vacation hours paid out at the employee’s current rate of pay. The pay out will occur as soon as administratively practicable but no later than April 30, 2008.

Option 2: Allocated Cash Out Option. Employee electing this option will have their excess vacation hours paid out over a period of several months in the 2008 calendar year at the employee’s current rate of pay.

Option 3: Deferral Option: Employee’s electing this option will have their excess vacation hours converted into a dollar amount based on their rate of pay as of January 1, 2008, which amount will be subject to allocation to the employee’s deferred compensation account up to the maximum amount allowed by IRS rules and regulations. Vacation cash out amounts in excess of the maximum deferral allowed under IRS rules and regulations shall be paid to the employee in accordance with Option 1 above.

Covered employee must notice their choice of option 1, option 2, or option 3 by filling out the provided election form and submit the form to the County Administrative Office no later than April 11, 2008.

Lyle Turpin, Chair
Board of Supervisors
Date: 4/4/08

Doug Bennewies
Sheriff’s Management Association
Date: 4/11/2008

Richard C. Bolanos
County Negotiator
Date: 4/17/08

Paul Kondorf
Goyette & Associates
Date: 4/18/08

Approved as to Form:

Thomas P. Guarino, County Counsel
Side Letter of Agreement to
Memorandum of Understanding (10/1/07-9/30/09)
Between County of Mariposa and Deputy Sheriffs' Association (DSA)

Employees having vacation hours in excess of 300 as of 1/1/08 shall have the following options for payment for those vacation hours:

Option 1: Cash Out Option. Employee electing this option will have their excess vacation hours paid out at the employee's current rate of pay. The pay out will occur as soon as administratively practicable but no later than April 30, 2008.

Option 2: Allocated Cash Out Option. Employee electing this option will have their excess vacation hours paid out over a period of several months in the 2008 calendar year at the employee's current rate of pay.

Option 3: Deferral Option: Employee's electing this option will have their excess vacation hours converted into a dollar amount based on their rate of pay as of January 1, 2008, which amount will be subject to allocation to the employee's deferred compensation account up to the maximum amount allowed by IRS rules and regulations. Vacation cash out amounts in excess of the maximum deferral allowed under IRS rules and regulation shall be paid to the employee in accordance with Option 1 above.

Covered employee must notice their choice of option 1, option 2, or option 3 by filling out the provided election form and submit the form to the County Administrative Office no later than April 11, 2008.

Lyfe Turpin, Chair
Board of Supervisors
Date: 4/4/08

Codie Hart, President
Deputy Sheriffs' Association
Date: 4/4/08

Richard C. Bolanos
County Negotiator
Date: 4/17/08

Paul Konsdorf
Goyette & Associates
Date: 4/12/08

Approved as to Form:

Thomas P. Guarino, County Counsel