



## CITY OF BANNING STAFF REPORT

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

**PREPARED BY:** Nate Smith, Public Works Deputy Director  
Art Vela, Director of Public Works

**MEETING DATE:** January 9, 2024

**SUBJECT:** Consideration of Resolution 2024-05, Vacating Malki Road between Martin Road and Sullivan Road.

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### **RECOMMENDATION:**

Staff recommends that City Council adopt Resolution 2024-05, vacating Malki Road between Martin Road and Sullivan Road.

### **BACKGROUND:**

On February 10, 2011, Lloyd Fields filed a complaint in the Superior Court of the State of California for the County of Riverside related to access to property that was privately held by Mr. Fields along the west side of Malki Road where access was blocked by the Morongo Band of Mission Indians. This complaint was resolved in a settlement between Mr. Fields and the City of Banning after an act of Congress that permitted for lands held in Trust for the Morongo Band of Mission Indians by the US Government to be traded with Mr. Fields in equal acreages where the private property held by Mr. Fields would be adjacent to City of Banning municipal limits and public right of way. The settlement did agree that at the completion of the land exchange, the City of Banning would vacate the section of Malki Road where lands on both side of the roadway are held by the Morongo Band of Mission Indians between Martin Road to the south and Sullivan Road to the north, generally behind the access gate and guard shack. Said vacation of is the final action in complying with the terms of the settlement agreement.

The Planning Commission reviewed the roadway vacation at a public hearing on September 6, 2023. The Planning Commission found that the roadway vacations are consistent with the City's General Plan, are unnecessary for present or prospective public right-of-way purposes, and approved Planning Commission Resolution 2023-17 adopting these findings. A copy of the Planning Commission Resolution is attached as reference to this staff report.

The City Council set the public hearing for this item at the December 12, 2023 Regular Session of the Banning City Council Meeting with Resolution 2023-185. In accordance with the Streets and Highways Code Section 8320 *et seq.*, notice was published in the Record Gazette on December 22, 2023 and December 29, 2023. A printed public notice was posted on Malki Road at the Morongo Band of Mission Indians guard house on Malki Road between these date and through this public hearing.

### **JUSTIFICATION:**

The roadway vacation is stipulated in the settlement agreement between Mr. Fields and the City of Banning. The City does not possess or maintain any public utility within the right of way. The right of way does not provide legal access to privately held property within the municipal limits of the City of Banning. The Morongo Band of Mission Indians has been providing roadway maintenance activities on this section

of roadway.

**FISCAL IMPACT:**

There is no fiscal impact to the City.

**ALTERNATIVES:**

Do not approve Resolution 2024-05 and provide direction to City Staff. It should be noted that, if the City does not complete the vacation of the described Malki Road right of way, the City will not meet its obligations as agreed to in the Settlement Agreement.

**ATTACHMENTS:**

1. [Resolution\\_2024-05\\_\\_Malki\\_Road\\_Vacation.pdf](#)
1. [Exhibit A - Vacation Plat and Legal.pdf](#)
2. [Att. 2 - Settlement Agreement.pdf](#)
3. [Att. 4 - Federal Law on Land Swap.PDF](#)
4. [Att. 3 - Land Exchange Map Doc #2018-0219575.pdf](#)
5. [Att. 5 - PC SR - Malki Road Vacation.pdf](#)
6. [Att. 6 - PC Reso 2023-17.pdf](#)
9. [2023 12 29\\_Proof of Publication.pdf](#)