

RESOLUTION NO. 19-38

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, PURSUANT TO SECTION 8-144 OF THE CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE, GRANTING A DOCK PERMIT FOR USE, MAINTENANCE AND REPAIR BY NEAL R. KALIS AS TRUSTEE OF THE 1700 BRICKELL LAND TRUST OF AN EXISTING FIXED MARGINAL DOCK CONSTRUCTED ON PUBLIC PROPERTY ABUTTING THE WATERWAY AND ENCROACHING INTO THE SOSPIRO CANAL AT 1700 BRICKELL DRIVE (EASTERLY TERMINUS OF BRICKELL DRIVE), AS SUCH PROPERTY IS MORE PARTICULARLY LEGALLY DESCRIBED BELOW; SUBJECT TO CERTAIN TERMS AND CONDITIONS; REPEALING ANY AND ALL PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, NEAL R. KALIS AS TRUSTEE OF THE 1700 BRICKELL LAND TRUST, applied for a permit to use, maintain and repair an existing fixed marginal dock on public property abutting a waterway in accordance with the provisions of Section 8-144 of the Code of Ordinances of the City of Fort Lauderdale; and

WHEREAS, the City's Marine Advisory Board on January 3, 2019, reviewed the application for dock permit filed by Applicant and voted unanimously to recommend to the City Commission approval of this application;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA:

SECTION 1. That pursuant to Section 8-144 of the Code of Ordinances of the City of Fort Lauderdale, permission is hereby granted to **NEAL R. KALIS AS TRUSTEE OF THE 1700 BRICKELL LAND TRUST** (hereinafter referred to as "Permit Holder") to use, maintain and repair an existing fixed marginal dock located on the Sospiro Canal, such dock being located within three hundred (300) feet of Permit Holder's property located at 1700 Brickell Drive and legally described as follows:

Lots 3 and 4, Block 36, COLEE HAMMOCK, according to the map or plat thereof as recorded in Plat Book 1, Page 17, Public Records Broward County, Florida.

(Property ID#: 5042 11 01 2020)
(Hereinafter "Property")

SECTION 2. The Dock Permit herein granted by this Resolution may be revoked at any time for violation of any one or more of the conditions of this Resolution or provisions of Section 8-144 of the 19-38

Code of Ordinances of the City of Fort Lauderdale, a number of such provisions are incorporated by reference as if fully set forth herein. The following conditions are listed for emphasis: (1) Permit Holder is prohibited from collecting rent for the dock facility; (2) the Dock Area, as defined below, shall not be used by any person or persons other than Permit Holder; (3) Permit Holder shall be responsible for maintaining the Improvements (the term "Improvements," as used herein shall mean the dock and seawall and any other appurtenant fixtures constructed by Permit Holder); (4) by acceptance of the use of the Improvements and the Permit granted hereby, Permit Holder agrees to defend, indemnify and hold City harmless for damages to property or injury to or for the death of anyone using the Improvements; (5) Permit Holder shall be responsible for all governmental charges or fees in connection with the maintenance, repair and use of the Improvements; (6) Permit Holder is prohibited from erecting any signs, landscaping or fencing that would restrict public access to the Public Swale Area as defined below.

SECTION 3. The granting of this Dock Permit is subject to the following terms and conditions:

1. The fixed period of the Dock Permit issued for use of the Improvements described in the application is for a period of five (5) years in accordance with City Code Section 8-144 (1). The fixed period of time is conditioned upon the requirement that the Permit Holder shall repair, replace or maintain the adjacent seawall during the term. Permission may be revoked by the City upon at least ninety (90) days advance notice to the Permit Holder.
2. As a special condition, the City reserves the right to remove the Improvements for replacement of the seawall in the event that this might be required during the term of the Dock Permit as deterred by the City Engineer. The sole cost of removal and replacement of the Improvements shall be the responsibility of the Permit Holder. Furthermore, the Permit Holder shall be responsible for maintaining and beautifying a reasonable area in and around the Dock Area and Public Swale Area and failure to do so shall be grounds for revocation of this Dock Permit.
3. (a) The "Public Swale Area" is the area to the Southeasterly terminus of the pavement for Brickell Avenue; bounded on the Southeast by the Southeasterly extension of the Northerly and Southerly boundaries of the Brickell Drive public right-of-way; and bounded on the Northwesterly boundary by the edge of the dead end pavement of the Brickell Drive public right-of-way, excluding therefrom the seawall cap abutting the Dock Area and the marginal dock and appurtenances thereto.

(b) The "Dock Area" is that area at the Southeasterly terminus of the Public Swale Area and bounded on the Northwest by the seawall cap; bounded on the Southeast by the boundaries of the 46' X 8' marginal wood dock. The Dock Area shall not extend into the Northeasterly five (5) feet and Southwesterly five (5) feet of the area bounded by the Southeasterly extension of the Northerly and Southerly boundaries of the Brickell Drive public right-of-way.

4. As a special condition of the Permit, the Permit Holder is prohibited from erecting any signs, landscaping or fencing to restrict public access to the Public Swale Area, provided however the Permit Holder may erect signage on the permitted dock indicated that it is a "Private Dock".
5. The Public Swale Area abutting the waterway shall be kept open at all times as means of reasonable ingress and egress to the public, but the Permit Holder shall have the right to exclude the public from the Dock Area.
6. All improvements to the Public Swale Area and Dock Area must be in accordance with City Engineering design standards and in compliance with applicable building and zoning permit requirements.
7. The Dock Permit granted herein shall not be assignable without the written approval by Resolution adopted by the City Commission.
8. Permit Holder shall not charge or collect any rent or fees from anyone using such dock constructed on public property.
9. As a special condition, vessels berthed at the permitted dock, pursuant to Code Sec. 8-91 (e) are prohibited from extending beyond the maximum distance of 30% of the width of the waterway.
10. Vessels berthed at the permitted dock must not encroach into Northeasterly five (5) feet or Southwesterly five (5) feet of the Southeasterly extension of the boundary lines of Brickell Drive public right-of-way into the waters of the Sospiro Canal.
11. In accordance with City Code Sec. 8-149, repair and/or maintenance of vessels moored at this location shall be permitted only when such repair or maintenance is routine or minor in nature and does not involve major exterior alteration, rebuilding, complete refinishing, and/or removal of machinery, or the use of tools and equipment in such repair or maintenance which would be in violation of City Code of Ordinances, Chapter 17, Noise Control. Repair or maintenance, whether major or minor, shall be permitted in residential areas if such necessary work is conducted wholly within the confines of a permanent enclosed structure, and so long as the work complies with all other applicable City ordinances.
12. As a special condition of the permit, in the event Permit Holder is found by the City Commission to have violated any of the above conditions or is found by the Code Enforcement Board, Special Magistrate or County Court Judge to have violated any Code sections relative to the use of the Dock Area, Dock and Mooring Piles, then the Permit granted herein may be repealed or rescinded by the City Commission upon thirty days' advance notice to the Permit Holder.

13. Use of the dock is limited to the docking of a vessel owned by the Permit Holder with a copy of the documentation showing the name and registration number of the vessel provided by the Permit Holder to the Supervisor of Marine Facilities.
14. The Permit Holder is prohibited from mooring any watercraft or vessel, other than a tender, in such a manner that it is "rafted out" from the vessel owned or operated by the Permit Holder and moored at the dock authorized under the dock permit.

SECTION 4. Permit Holder shall repair, replace or maintain the Improvements during the term of the Permit. The term of this Permit shall be five (5) years from the date of adoption of this Resolution, provided, however that this Permit may be revoked upon ninety (90) days advance notice for failure to repair, replace or maintain the Improvements. At the end of the five (5) year term, the Permit shall be revocable at the will of the City Commission.

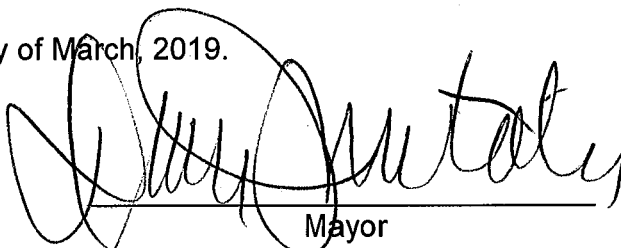
SECTION 5. That by acceptance of the benefits of this Resolution, Permit Holder acknowledges that the Public Property Area and Dock Area are part of a publicly dedicated right-of-way for Brickell Drive and that any right, title, interest or claim of use to the Dock Area, except to the extent provided herein, is subordinate and inferior to that public dedication until such public dedication is discontinued by law.

SECTION 6. That the City Clerk is hereby directed to record a copy of this Resolution in the Public Records of Broward County, Florida at the Permit Holder's expense and after recording to file same in the City's records.

SECTION 7. That all Resolutions or parts of Resolutions in conflict are hereby repealed.

SECTION 8. That this Resolution shall be in full force and effect upon final passage.

ADOPTED this the 5th day of March, 2019.



Mayor
DEAN J. TRANTALIS

ATTEST:



City Clerk
JEFFREY A. MODARELLI