

# **AMENDED and RESTATED BYLAWS OF ROTARY CLUB OF DENVER MILE HIGH FOUNDATION**

14 July 2011

## **ARTICLE 1. Offices**

**1.1** Principal Office. The principal office of the Rotary Club of Denver Mile High Foundation (Foundation) will be located in Denver, Colorado. The Foundation may have such other offices and places of business, either within or outside Colorado, as the Board of Directors (Board) may designate or as the business of the Foundation may require from time to time.

**1.2** Registered Office. The registered office of the Foundation required by the Colorado statutes to be maintained in Colorado may be, but need not be, identical with the principal office if in Colorado, and the address of the registered office may be changed from time to time by the Board.

## **ARTICLE 2. Members**

**2.1** Members and Certificates of Membership. This Foundation will not have members and accordingly shall not have certificates of membership.

## **ARTICLE 3. Board**

**3.1** General Powers. The business and affairs of the Foundation will be managed by its Board, except as otherwise provided in the Colorado Revised Nonprofit Corporation Act C.R.S. 7-121-101, *et seq.* or the Articles of Incorporation.

**3.2** Performance of Duties.

**a.** Directors of the Foundation are to perform their duties as Directors, including their duties as members of any committee of the Board upon which (s)he may serve, in good faith, in a manner (s)he reasonably believes to be in the best interest of the Foundation and with such care as an ordinarily prudent person in a like position would use under similar circumstances.

**b.** In performing his or her duties, a Director may rely on information, opinions, reports, or statements, including financial statements and other financial data, in each case prepared or presented by persons and groups listed in clauses [3.2b.\(i\)](#), [3.2b.\(ii\)](#), and [3.2b.\(iii\)](#); but a Director shall not be considered to be acting in good faith if the Director has knowledge concerning the matter in question that would cause such reliance to be unwarranted. A Director who performs his or her duties according to the foregoing standards is not to have any liability by reason of being or having been a Director of the Foundation. Those persons and groups upon whose information, opinions, reports, and statements a Director is entitled to rely are:

(i) One or more officers or employees of the Foundation whom the Director reasonably believes to be reliable and competent in the matters presented,

(ii) Counsel, public accountants, or other persons as to matter which the Director reasonably believes to be within such persons' professional or expert competence, or

(iii) A committee of the Board upon which the Director does not serve, duly designated in accordance with the provisions of the Articles of Incorporation or the Bylaws, as to matters within its designated authority, which committee the Director reasonably believes to merit confidence.

### **3.3** Number, Tenure, and Qualifications.

a. The number of Elected Directors of the Foundation are to be not less than three (3) nor more than eleven (11). Each Director is to serve a three (3) year term of office, provided that initially two (2) members will be elected for a term of three (3) years, two (2) members for a term of two (2) years, and two (2) members for a term of one (1) year.

b. No Elected Director may serve on the Board for more than six (6) consecutive years.

c. In addition to the foregoing Elected Directors, the following will be members of the Board *ex officio*:

(i) The current President of the Denver Mile High Rotary Club (Club)

(ii) The current President-Elect of the Club

(iii) The immediate Past-President of the Club

(iv) The current Chair of the Fund-Raising Committee.

d. All Directors must be members in good standing of the Club. Directors terms shall commence on July 1 of each year, as appropriate.

**3.4** Election of Directors. Elected Directors of the Foundation are to be elected by majority vote of the attending members of the Club at the Club's regular meeting on the third Wednesday in May of each year, following at least two weeks' notice of proposed nominations from the Club's Board. Cumulative voting for Elected Directors will not be allowed, and nominations from the floor at said meeting will not be allowed.

**3.5** Resignation and Removal. Any Director may resign at any time by delivering a written resignation to the Board. The acceptance of such a resignation will not be necessary to make it effective (unless acceptance is made a condition of the resignation). Any Director may be removed at any time for cause, including conduct injurious to the best interest of the Foundation, by the affirmative vote of two-thirds (2/3) of all Directors, provided that the notice of the meeting where such action is taken specifies that one of the items on the agenda for said meeting shall be the proposed removal of such Director. An Elected Director who misses three (3) consecutive regularly scheduled meetings of the Board without delivering a satisfactory explanation

through another Director to the Board prior to such meetings may be removed by the affirmative vote of a majority of the Directors present at any meeting.

**3.6** Vacancies. Any vacancy occurring in the Board and any Directorship to be filled by reason of an increase in the number of Directors is to be filled by majority vote of the Directors then in office. A Director elected to fill a vacancy is elected for the unexpired term of his or her predecessor in office. A Director elected to Directorship by reason of an increase in the number of Directors is to serve until the next successive annual meeting of Directors and until his or her successor be elected and qualified.

**3.7** Regular Meeting. A regular meeting of the Board is to be held without other notice than this Bylaw, during the first three weeks of July of each year, said meeting to be held at such place as may be designated by the President of the Foundation. The Board may provide by resolution the time and place, either within or without the State of Colorado, for the holding of additional regular meetings of the Board without other notice than such resolution.

**3.8** Special Meetings. Special meetings of the Board may be called by or at the request of the President or any two Directors. The person or persons authorized to call special meetings of the Board may fix any place as the place for holding any special meeting of the Board called by them.

**3.9** Notice. Notice of any special meeting must be given at least seven (7) days previously thereto by written notice mailed to each Director to his or her business address or such other address as the director may provide, or by notice given at least two days previously by personal delivery or electronic mail. Such notice, if mailed, will be deemed to be delivered when deposited in the United States mail so addressed, with postage thereon prepaid. For notice be given by electronic mail, such notice will be deemed to be delivered when the electronic mail is sent, properly addressed. Any Director may waive notice of any meeting. The attendance of a Director at a meeting will constitute a waiver of notice of such meeting, except where a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board need be specified in the notice of such meeting.

**3.10** Quorum. A quorum is constituted by forty *per cent.* (40%) of the number of Directors fixed by resolution of the Board (including those serving *ex officio*).

**3.11** Manner of Acting. If a quorum is present, the affirmative vote of a majority of the Directors present at the meeting and entitled to vote on that particular matter will be the act of the Board [*i.e.*, an abstention counts as a negative vote], unless the vote of a greater number is required by law or the Articles of Incorporation.

**3.12** Presumption of Assent. A Director of the Foundation who is present at a meeting of the Board at which action on any corporate matter is taken will be presumed

to have assented to the action taken unless the Director's dissent is entered in the minutes of the meeting or unless the Director files a written dissent to such action with the person acting as the Secretary of the meeting before the adjournment thereof or forwards such dissent by registered mail to the Secretary of the Foundation immediately after the adjournment of the meeting. Such right to dissent will not apply to a Director who voted in favor of such action.

**3.13 Action Without a Meeting.**

a. Any action required to be, or which may be, taken at a meeting of the Directors or members of any committee of the corporation entitled to vote with respect to the subject matter thereof (the electors) may be taken without a meeting by following the procedure set forth in C.R. S. 7-128-202.

b. Any solicitation for an action by Consent must be in writing, must provide an explanation of and justification for such solicitation, and must include a specific resolution in a form approved by the Secretary. Prior to the distribution of the approved form of resolution for consent, any communications are mere discussions regarding the issue.

c. No elector's consent granted prior to the distribution of the approved form of resolution to all electors is to have any effect whatsoever. Once an elector's consent is granted, it may not be revoked after sufficient electors have given their consent for the adoption of the resolution; however, it may be revoked at any time prior to receipt by the Secretary of consent from sufficient electors for the adoption of the resolution.

d. Comments by electors on a pending resolution should be distributed to all of the electors. Distribution may be by e-mail or by use of a web-site collaboration site; however, only e-mails directed to the Secretary will be included as part of the official record of the corporation.

e. Sending an e-mail that included the full text of the resolution with the words "I consent," will constitute evidence of the elector's signature to the Consent.

f. Once the Secretary has in his / her possession responses from all electors either indicating a vote in favor or a vote against or an abstention AND no elector demanding that the action be suspended pending a meeting AND there are a majority of the electors voting in favor, the Secretary will certify the adoption of the resolution by consent. No action requiring the adoption of the resolution may be taken unless and until the adoption of the resolution by consent has been certified by the Secretary. Such certification should be sent to all electors.

**3.14 Meetings by Telephone.** Members of the Board or any committee of the Directors may participate in a meeting of the Board or Committee by means of conference telephone or similar communications equipment by which all persons participating in the meeting can hear each other at the same time. Such participation constitutes presence in person at the meeting.

## ARTICLE 4. Officers

**4.1** General. The officers of the Foundation will be a President, one or more Vice-Presidents, a Secretary, a Treasurer, and such other officers as may be elected in accordance with the provisions of this Article. The Board may elect or appoint other officers, including one or more Assistant Secretaries and one or more Assistant Treasurers, such officers to have the authority and perform the duties prescribed, from time to time, by the Board. The officers of the Foundation are to be elected from among the elected Directors (excluding the Directors *ex officio*s). Any two or more offices may be held by the same person, except the offices of President and Secretary.

**4.2** Election and Term of Office. The Board will elect officers at the next Regular Meeting called pursuant to Section [3.7](#), above. Officers are to be elected by majority vote of all of the current Directors. Should the election of officers not be held at such meeting, such election is to be held as soon thereafter as conveniently may be. New offices may be created and filled at any meeting of the Board. Newly elected Officers will take office immediately upon election. Each officer is to hold office until her or his successor is duly elected and qualified.

**4.3** Removal and Resignation. Any officer elected or appointed by the Board may be removed by the Board whenever in its judgment the best interests of the Foundation would be served thereby. Any officer may resign at any time by giving written notice to the Foundation.

**4.4** Vacancies. A vacancy in an office because of death, resignation, removal, disqualification, or otherwise may be filled by the Board for the unexpired portion of the term.

**4.5** President. The President is the chief executive officer of the Foundation and is in general to supervise and to control all of the business and affairs of the Foundation. The President will preside at all meetings of the Board. The President may sign, with the Secretary or any other proper officer of the Foundation, contracts or other instruments which the Board has authorized to be executed, except in the cases where the signing and execution thereof be expressly delegated by the Board or by these Bylaws or by statute to some other officer or agent of the Foundation; and in general the President is to perform all duties incident to the office of President and such other duties as may be prescribed by the Board from time to time.

**4.6** Vice-President. In the absence of the President, or in the event of his or her inability or refusal to act, the Vice-President (or in the event there are more than one Vice-President, the Vice-Presidents in the order of their election) is to perform the duties of the President, and when so acting, is to have all the powers of and be subject to all the restrictions upon the President. Any Vice-President is also to perform such other duties as from time to time may be assigned to him or her by the President or by the Board.

**4.7** Treasurer. The Treasurer is to have charge and custody of and to be responsible for all funds and securities of the Foundation, to receive and to give receipts for moneys due and payable to the Foundation from any source whatsoever, to deposit all such moneys in the name of the Foundation in such banks, trust companies, or other depositories as may be selected by the Board pursuant to Section [6.4](#), and to perform all the duties as from time to time may be assigned to him or her by the President or by the Board.

**4.8** Secretary. The Secretary is to keep the minutes of the meetings of the Board in one or more books provided for that purpose, to see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law, to be custodian of the corporate records of the Foundation, and to attest to all documents, the execution of which on behalf of the Foundation is duly authorized in accordance with the provisions of these Bylaws, to perform all duties incident to the office of Secretary, and to perform such other duties as from time to time may be assigned to him or her by the President or by the Board.

**4.9** Salaries. Officers of the Foundation are not to be entitled to any salaries, emoluments, or compensation.

**4.10** Bonds. Should the Board by resolution so require, any officer or agent of the Foundation must give bond to the Foundation in such amount and with such surety as the Board may deem sufficient, conditioned upon the faithful performance of that officer's or agent's duties and offices.

## **ARTICLE 5. Indemnification of Officers and Directors**

**5.1** Indemnification of Directors, officers, and Others. The Foundation has the power to indemnify current or former Directors, officers, employees, and agents, to the fullest extent provided in Section (b), Article X of its Articles of Incorporation and by the Colorado Revised Nonprofit Corporation Act C.R.S. 7-121-101, *et seq.*, specifically by C.R.S. 7-128-202 *et seq.*

## **ARTICLE 6. Execution of Instruments; Loans; Checks and Endorsements; Deposits; Proxies**

**6.1** Execution of Instruments. The President or any Vice President may execute and deliver on behalf of and in the name of the Foundation any instrument requiring the signature of an officer of the Foundation, except as otherwise provided in these Bylaws or where the execution and delivery thereof be expressly delegated by the Board to some other officer or agent of the Foundation. Unless authorized to do so by these Bylaws or by specific action of the Board, no officer, agent, or employee may bind the Foundation in any way, to pledge its credit, or to render it liable pecuniarily for any purpose or in any amount.

**6.2** Loans. No loans may be contracted on behalf of the Foundation and no evidence of indebtedness may be issued in its name unless authorized by specific

resolution of the Board. Such authority may be general or confined to specific instances.

**6.3** Checks and Endorsements. All checks, drafts or other orders for the payment of money, obligations, notes or other evidences of indebtedness, bills of lading, warehouse receipts, trade acceptances, and other such instruments are to be signed or endorsed by such officers or agents of the Foundation as may from time to time be determined by resolution of the Board, which resolution may provide for the use of facsimile signatures.

**6.4** Deposits. All funds of the Foundation not otherwise employed are to be deposited from time to time to the Foundation's credit in such banks or other depositories as may from time to time be determined by resolution of the Board, which resolution may specify the officers or agents of the Foundation who are to have the power, and the manner in which such power may be exercised, to make such deposits and to endorse, to assign, and to deliver for collection and deposit checks, drafts, and other orders for the payment of money payable to the Foundation or its order.

**6.5** Proxies. Unless otherwise provided by resolution adopted by the Board, the President or any Vice-President may from time to time appoint one or more agents or attorneys-in-fact of the Foundation, in the name and on behalf of the Foundation, to cast the votes which the Foundation may be entitled to cast as the holder of stock or other securities in any other foundation, association, or other entity any of whose stock or other securities may be held by the Foundation, at meetings of the holders of the stock or other securities of such other foundation, association, or other entity or to consent in writing, in the name of the Foundation as such holder, to any action by such other foundation, association, or other entity, and may instruct the person or persons so appointed as to the manner of casting such votes or giving such consent, and may execute or cause to be executed in the name and on behalf of the Foundation and under its corporate seal, or otherwise, all such written proxies or other instruments as he may deem necessary or proper in the premises.

**6.6** Contracts. The Board may authorize any officer or officers or agent or agents to enter into any contract or to execute and to deliver any instrument in the name of and on behalf of the Foundation, and such authority may be general or confined to specific instances.

**6.7** Gifts. The Board may accept on behalf of the Foundation any contribution, gift, bequest, grant, or devise for any purpose of the Foundation.

## **ARTICLE 7. Accounting & Funds**

**7.1** Investment Restrictions. The actions of the Foundation are governed by the *UNIFORM FIDUCIARIES LAW* (C.R.S. 15-1-101 *et seq.*) more specifically the *COLORADO FIDUCIARIES POWERS ACT* (C.R.S. 15-1-801 *et seq.*), the *UNIFORM PRUDENT MANAGEMENT OF INSTITUTIONAL FUNDS ACTS* (C.R.S. 15-1-1101 *et seq.*), and the "Restriction on

exercise of certain fiduciary powers” (C.R.S. 15-1-1401) and the *UNIFORM PRUDENT INVESTOR ACT* (CRS 15-1.1-101 *et seq.*).

**7.2 Investment Policy.** As a matter of course, the Board is to adopt an investment policy. The investment policy should be reviewed annually by the board of the FOUNDATION and reported to the board of the Club.

**7.3 Reporting to the Club.** The Foundation is to report to the Club not less often than annually on the status of the Foundation.

**7.4 Funds.** The Foundation will maintain three funds, a “Project Fund,” an “Reserve Fund,” and an “Endowment Fund.” The three funds will be separately invested pursuant to the Investment Policy established pursuant to Section [7.2](#) as may be most appropriate for the nature of the fund. The Project Fund and Reserve Fund may be co-mingled, but the Endowment Fund must remain a separate fund.

**a.** The Project Fund is established initially with an amount which, with that anticipated to be raised by the Club fund-raising is sufficient to address the projects intended to be funded for the year. The purpose of this fund is to fund the projects undertaken by the Club in accordance with its budget as adopted by the Club.

**b.** The Reserve Fund is initially funded with up to Fifty Thousand Dollars (\$50,000.00). The purpose of this fund is to provide a reserve to address the possibility that in a given year the Club fund-raising efforts may fall short of that budgeted. The purpose of the reserve is to allow the Club to address a three-year rolling budget for projects and, in special circumstances, to fund an unanticipated project.

**c.** The Endowment Fund is initially funded from the available funds in the Foundation not required to establish initially the first two funds. The purpose of the Endowment Fund is to provide a vehicle to receive gifts and bequests intended to preserve the long-term potential of the Foundation.

**7.5 Additional Contributions:**

**a.** All contributions to the FOUNDATION identified as for specific projects or for current projects, generally will be added to the Project Fund as and when received.

**b.** Should annual fund-raising be greater than that required for the annual Projects Fund, the excess will be added to the Reserve Fund.

**c.** All unrestricted gifts to either the Club or the Foundation in excess of One Thousand Dollars (\$1,000) and all unrestricted bequests and devises (that is, donations, whether made by Will or Trust, that does not take effect until the donor dies) received by either the Club or the Foundation will be added to the Endowment Fund. In addition, the Board may transfer any amount of funds from the Project Fund or the Reserve Fund as it may determine to be surplus.

**7.6 Income Allocation.**

**a.** The income from the Project Fund and from the Reserve Fund is to be added to the Project Fund at least annually.

b. The income from the Endowment Fund is to be retained and reinvested in such fund until the fund reached a total value of Five Hundred Thousand Dollars (\$500,000). Thereafter, "income" from the endowment is to be defined as three *per cent.* (3%) of the corpus of the endowment as of the last business day of February in each year, provided that for a given year, upon the request of a two-thirds (2/3) vote of the board of the Club the definition of "income" may be expanded to five *per cent* (5%) of the corpus as of the valuation date. As so determined, the income is to be distributed to the Project Fund the July following.

#### 7.7 Principal Distributions.

a. The income or principal of the Project Fund is to be distributed to such projects as the Club (acting by and through its Board of Directors) may appoint, subject only to the limitations that any such appointment be for a charitable, educational, or eleemosynary purpose.

b. The income or principal of the Reserve Fund is to be distributed to such projects as the Club (acting by and through its Board of Directors) may, with the advice and consent of the Foundation Board, appoint, subject only to the limitations that any such appointment be for a charitable, educational, or eleemosynary purpose.

c. Distributions of principal of the Endowment Fund in any year may be made only in the event of exigent circumstances declared by the joint action of the Club (acting by and through its Board of Directors) and the Foundation Board, by a two-thirds ( $\frac{2}{3}$ ) vote of each board.

### ARTICLE 8. Committees

8.1 Executive Committee. The Board, by resolution duly adopted may establish an Executive Committee. Said Executive Committee, if established, will consist of the President, Vice-President, and three Directors selected by the Board from its membership. The Executive Committee may direct the management of the affairs of the Foundation in the interim between meetings of the Board, subject to the control of the Board. No such delegation of authority may operate to relieve the Board or any member of the Board from any responsibility imposed by law. The Executive Committee may meet at any time when the Board is not in session, and meetings may be called by the President or by two of the members of the Executive Committee by giving notice of such meeting designating the time and place thereof pursuant to the terms of Section [3.9](#). The Executive Committee must keep full and true minutes of all business transacted at each meeting, and must submit its report, together with a copy of the minutes of its proceedings to the Board at its next meeting thereafter.

#### 8.2 Committees.

a. The Board may create such committees as the Board may prescribe. Membership on such committees may include individuals not Directors and individuals who may or may not be members of the Club, provided, however, that at least two (2) members of any such committee must be Directors. The Board may provide by resolution such composition, powers, limitations, and procedures for such committees as the Board deems advisable; however, no such committee is to have the authority of the Board in reference to amending the Articles of Incorporation,

recommending to the members the sale, lease, exchange, or other disposition of all or substantially all of the property and assets of the Foundation otherwise than in the usual and regular courses of its business, recommending to the Board a voluntary dissolution of the Foundation or a revocation thereof, or amending these Bylaws.

b. Such committees may include, without limitation, an Investment Committee, the purpose of which if established, would be to establish the Investment Policy called for in Section [7.2](#), and pursuant to such Investment Policy to manage the funds or other assets donated or devised to the Foundation by members or others for the general purposes of the Foundation.

## ARTICLE 9. EMERGENCY BYLAWS

9.1 Operative Event. These emergency Bylaws are to be operative during any emergency in the conduct of the affairs of the Corporation resulting from a catastrophic event. These emergency Bylaws supersede any different provisions elsewhere in the Colorado Revised Nonprofit Corporation Acts, the Articles of Incorporation, or Bylaws.

### 9.2 Emergency Meetings.

a. A meeting of the Board may be called by any officer or director upon such notice as may be reasonable under the circumstances, which notice need only be given to such directors as it may be practical to reach at the time and by any practical means.

b. One or more officers of the corporation present at a meeting may be deemed to be directors for the meeting in order of rank and within the same rank in order of seniority, as necessary to reach a quorum. Should a quorum still not be reached, then the director or directors and officer or officers in attendance at the meeting is (are) to constitute a quorum.

9.3 Emergency Powers. The Board may provide and, from time to time, modify lines of succession to accommodate the incapacity of any director, officer, employee, or agent or relocate the principal office or additional offices or authorize the officers to do so.

## ARTICLE 10. Miscellaneous

10.1 Waiver of Notice. Whenever any notice is required to be given under the provisions of the Colorado Revised Nonprofit Corporation Act C.R.S. 7-121-101, *et seq.* or under the provisions of these Bylaws, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, will be equivalent to the giving of such notice.

10.2 Books and Records. The Foundation must keep correct and complete books and records of account and must also keep minutes of the proceedings of the Board and committees having and exercising any of the authority of the Board. All books and records of the Foundation may be inspected by any Director, or his or her

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AS AMENDED 14 JULY 2011

agent or attorney, for any proper purpose at any reasonable time during reasonable business hours.

**10.3** Fiscal year. The fiscal year of the Foundation will be as established by the Board.

**10.4** Amendments.

a. The Board may alter, amend, or repeal these Bylaws or adopt new Bylaws of the Foundation at any regular meeting of the Board or at any special meeting called for that purpose, upon the affirmative vote of two-thirds ( $\frac{2}{3}$ ) of the Directors present at such meeting

b. Notwithstanding the foregoing, Article 7 may only be amended by the joint action of the Club (acting by and through its Board of Directors) and the Board, by a three-fourths ( $\frac{3}{4}$ ) vote of each board.

**10.5** Parliamentary Authority. In all meetings of the Foundation, Board, and committees, "Robert's Rules of Order", as revised, will be the authority on parliamentary law, except when in conflict with express provisions of these Bylaws.

**CERTIFICATE**

The undersigned hereby certifies that he/she is the duly elected, qualified, acting, and hereunto authorized Secretary of the aforesaid Foundation and that the foregoing and annexed Bylaws constitute a true and complete copy of the Amended and Restated Bylaws of said Foundation duly adopted on 14 July 2011 and presently in full force and effect.

IN WITNESS WHEREOF, the undersigned has signed this Certificate.

Date: August 14 2011

Carolyn Schrader  
Secretary of the Foundation