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**CITY OF TEMPE**  
**REQUEST FOR COUNCIL ACTION****Council Meeting Date: 06/23/2016**  
**Agenda Item: 6C4**

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**ACTION:** Hold the second and final public hearing to adopt an ordinance authorizing the Mayor to execute a development agreement, deeds, a land and improvements lease, a memorandum of lease and additional documents with FDG Local Tempe Associates, LLC ("Forum") with respect to THE FOUNDRY project to be constructed at 204 West University Drive. (Ordinance No. O2016.39)

**FISCAL IMPACT:** The development agreement provides for a 10-year government property lease with an 8-year abatement of the Government Property Lease Excise Tax. The development agreement also provides for the abandonment of certain city-owned right-of-way in exchange for 10 reserved parking spaces within the project.

**RECOMMENDATION:** Adopt Ordinance No.O2016.39.

**BACKGROUND INFORMATION:** The development agreement requires Forum to open a grocery store, of not less than 30,000 square feet (the "Market"), prior to the first anniversary of the Government Property Lease. If Forum fails to open the Market within this time frame, the Government Property Lease will terminate. Once open, the Market must be continuously operated for the term of the Government Property Lease. If the Market ceases operation for 60 days, the Government Property Lease shall automatically terminate, unless (i) Forum executes a lease with another grocer within two hundred seventy (270) days from the date the Market or replacement Market ceased operation, and (ii) the replacement Market opens to the public for business within two hundred seventy (270) days after execution of the lease. The Government Property Lease will terminate if the Market or any replacement Market ceases operation for a period longer than 540 days.

City has previously established a quiet zone along the area adjacent to the project. To preserve the quiet zone status, the development of the project will necessitate installation of quad-gates at the railroad crossing adjacent to the project. The development agreement requires Forum to pay all costs associated with the installation of the quad-gates and to pay operation and maintenance costs for a period of 20 years.

The development agreement also requires Forum to prepare and process for approval prior to execution of the Government Property Lease, a condominium plat designating each dwelling unit as a separate condominium unit. Following approval by the City, the approved plat shall be held in escrow with irrevocable instructions to record same on the tenth (10th) anniversary of the date of issuance of the certificate of occupancy for the improvements or on earlier termination of the Government Property Lease.

**ATTACHMENTS:** Ordinance, Development Agreement

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