
**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
Washington, D.C. 20549

FORM 8-K

**CURRENT REPORT
PURSUANT TO SECTION 13 OR 15(d)
OF THE SECURITIES AND EXCHANGE ACT OF 1934**

Date of report (date of earliest event reported): February 8, 2017

**WHEELER REAL ESTATE INVESTMENT
TRUST, INC.**

(Exact name of registrant as specified in its charter)

Maryland
(State or Other Jurisdiction
of Incorporation)

001-35713
(Commission
File Number)

45-2681082
(IRS Employer
Identification No.)

**2529 Virginia Beach Blvd., Suite 200
Virginia Beach, VA 23452**

Registrant's telephone number, including area code: (757) 627-9088

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligations of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
 - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
 - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
 - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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ITEM 1.01 ENTRY INTO A MATERIAL DEFINITIVE AGREEMENT.

On November 15, 2016, Wheeler Real Estate Investment Trust, Inc. (the “Company”) filed a Current Report on Form 8-K (the “Original 8-K”) to report the contribution of the membership interests in P&W SC/GA Properties I Management, LLC (“P&W”) and South Main Streets, LLC (“South Main”) held by Multiple Holdings, LLC, Woodside Capital, LLC, SMS Management, LLC and P&W SC/GA Properties I Management, LLC (the “Contributors”), among others, to Wheeler REIT, L.P. (“Wheeler REIT”), a Virginia limited partnership of which the Company is the sole general partner, in exchange for common units (the “Common Units”) of Wheeler REIT, and as described more fully in Item 3.02 of the Original 8-K. On February 8, 2017, in connection with the contribution of the membership interests of P&W and South Main held by the Contributors to Wheeler REIT, the Company and Wheeler REIT entered into a Tax Protection Agreement (the “Tax Protection Agreement”) with Jon Wheeler due to his ownership interests in the Contributors, obligating Wheeler REIT to reimburse Mr. Wheeler (or his affiliates that received the Common Units) for tax liabilities resulting from their recognition of certain taxable income or gain in the event that Wheeler REIT takes certain action prior to November 10, 2023 with respect to the properties held by P&W and South Main, the result of which causes such recognition of taxable income or gain.

The Tax Protection Agreement is attached as an exhibit to this Form 8-K and is incorporated herein by reference. Jon Wheeler is the Company’s Chairman and Chief Executive Officer, and the Company is the general partner of Wheeler REIT. No other officer, director or affiliate of the Company is affiliated with any of the parties.

ITEM 9.01 FINANCIAL STATEMENTS AND EXHIBITS.

- (a) Financial statement of businesses acquired.

Not Applicable.

- (b) Pro forma financial information.

Not applicable.

- (c) Shell company transactions.

Not Applicable.

- (d) Exhibits.

10.1 Tax Protection Agreement.

Pursuant to the requirements of the Securities and Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

WHEELER REAL ESTATE INVESTMENT TRUST,
INC.

By: /s/ Jon S. Wheeler
Jon S. Wheeler
Chairman and Chief Executive Officer

Dated: February 10, 2017.

EXHIBIT INDEX

<u>Number</u>	<u>Description of Exhibit</u>
10.1	Tax Protection Agreement.

TAX PROTECTION AGREEMENT

THIS TAX PROTECTION AGREEMENT (this "Agreement") is made and entered into as of February 8, 2017 by and among WHEELER REIT, L.P., a Virginia limited partnership (the "Partnership"), WHEELER REAL ESTATE INVESTMENT TRUST, INC., a Maryland corporation (the "REIT"), and JON S. WHEELER, a resident of the Commonwealth of Virginia (the "Contributor").

WHEREAS, pursuant to those certain Contribution and Subscription Agreements, dated as of November 10, 2016 (the "Contribution Agreements"), Multiple Holdings, LLC, Woodside Capital, LLC, SMS Management, LLC, and P&W SC/GA Properties I Management, LLC, in each of which the Contributor owns an interest (the "Contributor Holding Companies") and the Contributor, have contributed (the "Contribution"), as applicable, their membership interests in South Main Street Associates, LLC, a Virginia limited liability company ("South Main"), and P&W SC/GA Properties I, LLC, a Virginia limited liability company ("P&W"), to the Partnership in exchange for common partnership units of the Partnership (the "Units");

WHEREAS, it is intended for federal income tax purposes that the Contribution for Units will be treated as an assets-over merger, pursuant to Treasury Regulations § 1.708-1(c)(3)(i), with the Partnership as the "continuing partnership" and South Main and P&W each treated as making a tax-deferred contribution of all its assets and liabilities to the Partnership in exchange for Units under Section 721 of the Internal Revenue Code of 1986, as amended (the "Code"), and immediately thereafter, making a liquidating distribution of the Units to their respective members;

WHEREAS, in consideration for the Contributor and the Contributor Holding Companies making the Contribution, the parties desire to enter into this Agreement regarding certain tax matters as set forth herein; and

WHEREAS, the REIT and the Partnership desire to evidence their agreement regarding amounts that may be payable in the event of certain actions being taken by the Partnership regarding the disposition of certain of the contributed assets and regarding certain minimum debt obligations of the Partnership and its subsidiaries.

NOW, THEREFORE, in consideration of the promises and the mutual representations, warranties, covenants and agreements contained herein and in the Contribution Agreements, the parties hereto hereby agree as follows:

**ARTICLE 1
DEFINITIONS**

To the extent not otherwise defined herein, capitalized terms used in this Agreement have the meanings ascribed to them in the Partnership Agreement (as defined below).

"Accounting Firm" has the meaning set forth in Section 3.2.

"Agreement" has the meaning set forth in the Preamble.

“Closing Date” means the closing date of the Contribution.

“Code” has the meaning set forth in the Preamble.

“Gain Limitation Property” means (i) each of the properties and assets identified on Schedule 2.1(a) hereto as a Gain Limitation Property; (ii) any direct or indirect interest owned by the Partnership in any entity that owns an interest in a Gain Limitation Property, if the disposition of that interest would result in the recognition of Protected Gain by the Protected Partner; and (iii) any other property that the Partnership directly or indirectly receives that is in whole or in part a “substituted basis property” as defined in Section 7701(a)(42) of the Code with respect to a Gain Limitation Property.

“Partnership” has the meaning set forth in the Preamble.

“Partnership Agreement” means the Amended and Restated Agreement of Limited Partnership of the Partnership, dated as of November 16, 2012, as amended, and as the same may be further amended in accordance with the terms thereof.

“Partnership Interest Consideration” has the meaning set forth in Section 2.1(a).

“Protected Gain” shall mean the gain that would be allocable to and recognized by the Protected Partner (including any such gain allocable to the Protected Partner through one or more pass-through entities in which the Protected Partner owns an interest) for federal income tax purposes under Section 704(c) of the Code in the event of the sale of a Gain Limitation Property in a fully taxable transaction. The initial amount of Protected Gain with respect to the Protected Partner shall be determined as if the Partnership sold each Gain Limitation Property in a fully taxable transaction on the Closing Date for consideration equal to the Section 704(c) Value of such Gain Limitation Property on the Closing Date, and is set forth on Schedule 2.1(a) hereto. Gain that would be allocated to the Protected Partner upon a sale of a Gain Limitation Property that is “book gain” (for example, any gain attributable to appreciation in the actual value of the Gain Limitation Property following the Closing Date or any gain resulting from reductions in the “book value” of the Gain Limitation Property following the Closing Date) shall not be considered Protected Gain. As used in this definition, “book gain” is any gain that would not be required under Section 704(c) of the Code and the applicable regulations to be specially allocated to the Protected Partner for federal income tax purposes.

“Protected Partner” means the Contributor and any person who (i) acquires Units from the Protected Partner in a transaction in which gain or loss is not recognized in whole or in part and in which such transferee’s adjusted basis for federal income tax purposes is determined in whole or in part by reference to the adjusted basis of the Protected Partner in such Units, (ii) has notified the Partnership of its status as the Protected Partner and (iii) provides all documentation reasonably requested by the Partnership to verify such status, but excludes any person that ceases to be the Protected Partner pursuant to this Agreement.

“Section 704(c) Value” means the fair market value of any Gain Limitation Property as of the Closing Date, as determined by the Partnership and as set forth next to each Gain Limitation Property on Schedule 2.1(b) hereto. Notwithstanding the preceding sentence, with respect to each Gain Limitation Property, the Section 704(c) Value shall not exceed the “Maximum Agreed Value” set forth next to each Gain Limitation Property on Schedule 2.1(b) hereto.

“Subsidiary” means any entity in which the Partnership owns a direct or indirect interest that owns a Gain Limitation Property on the Closing Date or that thereafter is a successor to the Partnership’s direct or indirect interests in a Gain Limitation Property.

“Successor Corporation” has the meaning set forth in Section 2.1(b).

“Tax Protection Period” means the period commencing on the Closing Date and ending at 12:01 AM on November 10, 2023.

“Units” has the meaning set forth in the Recitals.

ARTICLE 2 RESTRICTIONS ON DISPOSITIONS OF GAIN LIMITATION PROPERTIES

2.1 Restrictions on Disposition of Gain Limitation Properties.

(a) The Partnership agrees for the benefit of the Protected Partner, for the term of the Tax Protection Period, not to directly or indirectly sell, exchange, transfer, or otherwise dispose of a Gain Limitation Property or any interest therein, without regard to whether such disposition is voluntary or involuntary, in a transaction that would cause the Protected Partner to recognize any Protected Gain.

Without limiting the foregoing, the term “sale, exchange, transfer or disposition” by the Partnership shall be deemed to include, and the prohibition shall extend to:

- (i) any direct or indirect disposition by any direct or indirect Subsidiary of any Gain Limitation Property or any interest therein;
- (ii) any direct or indirect disposition by the Partnership of any Gain Limitation Property (or any direct or indirect interest therein) that is subject to Section 704(c)(1)(B) of the Code and the Treasury Regulations thereunder; and
- (iii) any distribution by the Partnership to a Protected Partner (or any pass-through entity or disregarded entity in which the Protected Partner owns an interest) that is subject to Section 737 of the Code and the Treasury Regulations thereunder.

Without limiting the foregoing, a disposition shall include any transfer, voluntary or involuntary, by the Partnership or any Subsidiary in a foreclosure proceeding, pursuant to a deed in lieu of foreclosure, or in a bankruptcy proceeding.

Notwithstanding the foregoing, this Section 2.1 shall not apply to a voluntary, actual disposition by the Protected Partner (or any entity in which the Protected Partner owns an interest) of Units in connection with a merger or consolidation of the Partnership pursuant to which (1) the Protected Partner (or any entity in which the Protected Partner owns an interest) is offered as consideration for the Units either cash or property treated as cash pursuant to Section 731 of the Code ("Cash Consideration") or partnership interests and the receipt of such partnership interests would not result in the recognition of gain for federal income tax purposes by the Protected Partner (including any such gain allocable to the Protected Partner through one or more pass-through entities in which the Protected Partner owns an interest) ("Partnership Interest Consideration"); (2) the Protected Partner (or any entity in which the Protected Partner owns an interest) has the right to elect to receive solely Partnership Interest Consideration in exchange for his or its Units, and the continuing partnership has agreed in writing to assume the obligations of the Partnership under this Agreement; (3) no Protected Gain is recognized by the Partnership as a result of any partner of the Partnership receiving Cash Consideration; and (4) the Protected Partner (or any entity in which the Protected Partner owns an interest) elects or is deemed to elect to receive solely Cash Consideration.

(b) Notwithstanding the restriction set forth in this Section 2.1, the Partnership and any Subsidiary may dispose of any Gain Limitation Property (or any interest therein) if such disposition qualifies as a "like-kind exchange" under Section 1031 of the Code, or an involuntary conversion under Section 1033 of the Code, or other transaction (including, but not limited to, a contribution of property to any entity that qualifies for the non-recognition of gain under Section 721 or Section 351 of the Code, or a merger or consolidation of the Partnership with or into another entity (a "Successor Corporation")) that, as to each of the foregoing, does not result in the recognition of any taxable income or gain to the Protected Partner (including any such taxable income or gain allocable to the Protected Partner through one or more pass-through entities in which the Protected Partner owns an interest) with respect to any of the Units; *provided, however*, that in the case of a "like-kind exchange" under Section 1031 of the Code, if such exchange is with a "related party" within the meaning of Section 1031(f)(3) of the Code, any direct or indirect disposition by such related party of the Gain Limitation Property or any other transaction prior to the expiration of the two (2) year period following such exchange that would cause Section 1031(f)(1) of the Code to apply with respect to such Gain Limitation Property (including by reason of the application of Section 1031(f)(4) of the Code) shall be considered a violation of this Section 2.1 by the Partnership.

ARTICLE 3
REMEDIES FOR BREACH

3.1 Monetary Damages. In the event that the Partnership breaches its obligations set forth in Article 2, with respect to the Protected Partner, the Protected Partner's sole remedy shall be to receive from the Partnership, and the Partnership shall pay to the Protected Partner as damages, an amount equal to: (i) the aggregate federal, state, and local income taxes incurred by the Protected Partner with respect to the Protected Gain that is allocable to such Protected Partner under the Partnership Agreement (including any such Protected Gain allocable to the Protected Partner through one or more pass-through entities in which the Protected Partner owns an interest) as a result of the disposition of the Gain Limitation Property, plus (ii) an amount equal to the aggregate federal, state, and local income taxes payable by the Protected Partner as a result of the receipt of any payment required under this Section 3.1.

For purposes of computing the amount of federal, state, and local income taxes required to be paid by the Protected Partner, (i) any deduction for state income taxes payable as a result thereof actually allowed in computing federal income taxes shall be taken into account, and (ii) the Protected Partner's tax liability shall be computed using the highest federal, state and local marginal income tax rates that would be applicable to the Protected Partner's taxable income (taking into account the character and type of such income or gain), including, if applicable, the net investment income tax, for the year with respect to which the taxes must be paid, without regard to any deductions, losses or credits that may be available to the Protected Partner that would reduce or offset its actual taxable income or actual tax liability if such deductions, losses or credits could be utilized by the Protected Partner to offset other income, gain or taxes of the Protected Partner, either in the current year, in earlier years, or in later years.

3.2 Process for Determining Damages. If the Partnership has breached or violated any of the covenants set forth in Article 2 (or the Protected Partner asserts that the Partnership has breached or violated any of the covenants set forth in Article 2), the Partnership and the Protected Partner agree to negotiate in good faith to resolve any disagreements regarding any such breach or violation and the amount of damages, if any, payable to the Protected Partner under Section 3.1. If any such disagreement cannot be resolved by the Partnership and the Protected Partner within sixty (60) days after the receipt of notice from the Partnership of such breach and the amount of income to be recognized by reason thereof (or, if applicable, receipt by the Partnership of an assertion by the Protected Partner that the Partnership has breached or violated any of the covenants set forth in Article 2), the Partnership and the Protected Partner shall jointly retain a regionally recognized independent public accounting firm ("an Accounting Firm") to act as an arbitrator to resolve as expeditiously as possible all points of any such disagreement (including, without limitation, whether a breach of any of the covenants set forth in Article 2, has occurred and, if so, the amount of damages to which the Protected Partner is entitled as a result thereof, determined as set forth in Section 3.1). All determinations made by the Accounting Firm with respect to the resolution of any breach or violation of any of the covenants set forth in Article 2 and the amount of damages payable to the Protected Partner under Section 3.1 shall be final, conclusive and binding on the Partnership and the Protected Partner. The fees and expenses of any Accounting Firm incurred in connection with any such determination shall be shared equally by the Partnership and the Protected Partner, *provided that* if the amount determined by the Accounting Firm to be owed by the Partnership to the

Protected Partner is more than five percent (5%) higher than the amount proposed by the Partnership to be owed to the Protected Partner prior to the submission of the matter to the Accounting Firm, then all of the fees and expenses of any Accounting Firm incurred in connection with any such determination shall be paid by the Partnership and if the amount determined by the Accounting Firm to be owed by the Partnership to the Protected Partner is more than five percent (5%) less than the amount proposed by the Partnership to be owed to the Protected Partner prior to the submission of the matter to the Accounting Firm, then all of the fees and expenses of any Accounting Firm incurred in connection with any such determination shall be paid by the Protected Partner.

3.3 Required Notices; Time for Payment. In the event that there has been a breach of Article 2, the Partnership shall provide to the Protected Partner notice of the transaction or event giving rise to such breach not later than at such time as the Partnership provides to the Protected Partner the IRS Schedule K-1 to the Partnership's federal income tax return for the year of such transaction. All payments required to be made under this Article 3 to the Protected Partner shall be made to the Protected Partner on or before April 15 of the year following the year in which the gain recognition event giving rise to such payment took place; *provided that*, if the Protected Partner is required to make estimated tax payments that would include such gain (taking into account all available safe harbors), the Partnership shall make a payment to the Protected Partner on or before the due date for such estimated tax payment and such payment from the Partnership shall be in an amount that corresponds to the amount of the estimated tax being paid by the Protected Partner at such time as a result of the gain recognition event. In the event of a payment made after the date required pursuant to this Section 3.3, interest shall accrue on the aggregate amount required to be paid from such date to the date of actual payment at a rate equal to the "prime rate" of interest, as published in the Wall Street Journal (or if no longer published there, as announced by Citibank) effective as of the date the payment is required to be made.

ARTICLE 4 SECTION 704(C) METHOD AND ALLOCATIONS

Notwithstanding any provision of the Partnership Agreement, the Partnership shall use the "traditional method" under Treasury Regulations Section 1.704-3(b) for purposes of making all allocations under Section 704(c) of the Code with respect to any Gain Limitation Property.

ARTICLE 5 AMENDMENT OF THIS AGREEMENT; WAIVER OF CERTAIN PROVISIONS

5.1 Amendment. This Agreement may not be amended, directly or indirectly (including by reason of a merger between either the Partnership or the REIT and another entity) except by a written instrument signed by the REIT, the Partnership, and the Protected Partner to be subject to such amendment.

5.2 Waiver. Notwithstanding the foregoing, upon written request by the Partnership, the Protected Partner, in his sole discretion, may waive the payment of any damages that are otherwise payable to the Protected Partner pursuant to Article 3 hereof. Such a waiver shall be effective only if obtained in writing from the Protected Partner.

ARTICLE 6
MISCELLANEOUS

6.1 Additional Actions and Documents. Each of the parties hereto hereby agrees to take or cause to be taken such further actions, to execute, deliver, and file or cause to be executed, delivered and filed such further documents, and will obtain such consents, as may be necessary or as may be reasonably requested in order to fully effectuate the purposes, terms and conditions of this Agreement.

6.2 Assignment. No party hereto shall assign its or his rights or obligations under this Agreement, in whole or in part, except by operation of law, without the prior written consent of the other parties hereto, and any such assignment contrary to the terms hereof shall be null and void and of no force and effect.

6.3 Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the Protected Partner and his successors and permitted assigns, whether so expressed or not. This Agreement shall be binding upon the REIT, the Partnership, and any entity that is a direct or indirect successor, whether by merger, transfer, spin-off or otherwise, to all or substantially all of the assets of either the REIT or the Partnership (or any prior successor thereto as set forth in the preceding portion of this sentence), *provided that* none of the foregoing shall result in the release of liability of the REIT and the Partnership hereunder. The REIT and the Partnership covenant with and for the benefit of the Protected Partner not to undertake any transfer of all or substantially all of the assets of either entity (whether by merger, transfer, spin-off or otherwise) unless the transferee has acknowledged in writing and agreed in writing to be bound by this Agreement, *provided that* the foregoing shall not be deemed to permit any transaction otherwise prohibited by this Agreement.

6.4 Modification; Waiver. No failure or delay on the part of any party hereto in exercising any power or right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the parties hereunder are cumulative and not exclusive of any rights or remedies which they would otherwise have. No modification or waiver of any provision of this Agreement, nor consent to any departure by any party therefrom, shall in any event be effective unless the same shall be in writing, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. No notice to or demand on any party in any case shall entitle such party to any other or further notice or demand in similar or other circumstances.

6.5 Representations and Warranties Regarding Authority; Noncontravention. Each of the REIT and the Partnership has the requisite corporate or other (as the case may be) power and authority to enter into this Agreement and to perform its respective obligations hereunder. The execution and delivery of this Agreement by each of the REIT and the Partnership and the performance of each of its respective obligations hereunder have been duly authorized by all necessary trust, partnership, or other (as the case may be) action on the part of each of the REIT and the Partnership. This Agreement has been duly executed and delivered by each of the REIT and the Partnership and constitutes a valid and binding obligation of each of the REIT and the

Partnership, enforceable against each of the REIT and the Partnership in accordance with its terms, except as such enforcement may be limited by (i) applicable bankruptcy or insolvency laws (or other laws affecting creditors' rights generally) or (ii) general principles of equity. The execution and delivery of this Agreement by each of the REIT and the Partnership do not, and the performance by each of its respective obligations hereunder will not, conflict with, or result in any violation of (i) the Partnership Agreement or (ii) any other agreement applicable to the REIT and/or the Partnership, other than, in the case of clause (ii), any such conflicts or violations that would not materially adversely affect the performance by the Partnership and the REIT of their obligations hereunder.

6.6 Captions. The Article and Section headings contained in this Agreement are inserted for convenience of reference only, shall not be deemed to be a part of this Agreement for any purpose, and shall not in any way define or affect the meaning, construction or scope of any of the provisions hereof.

6.7 Notices. All notices and other communications given or made pursuant hereto shall be in writing, shall be deemed to have been duly given or made as of the date delivered, mailed or transmitted, and shall be effective upon receipt, if delivered personally, mailed by registered or certified mail (postage prepaid, return receipt requested) to the parties at the following addresses (or at such other address for a party as shall be specified by like changes of address) or sent by electronic transmission to the telecopier number specified below:

- (i) if to the Partnership or the REIT, to:

Wheeler Real Estate Investment Trust, Inc.
Riversedge North
2529 Virginia Beach Blvd.
Virginia Beach, VA 23452

With a copy to:

Haneberg, PLC
310 Granite Ave.
Richmond, Virginia 23226
Attn: Bradley A. Haneberg, Esq.

(ii) if to the Protected Partner, to:

Jon S. Wheeler
Riversedge North
2529 Virginia Beach Blvd.
Virginia Beach, VA 23452

With a copy to:

Haneberg, PLC
310 Granite Ave.
Richmond, Virginia 23226
Attn: Bradley A. Haneberg, Esq.

Each party may designate by notice in writing a new address to which any notice, demand, request or communication may thereafter be so given, served or sent. Each notice, demand, request, or communication which shall be hand delivered, sent, mailed, telecopied or telexed in the manner described above, or which shall be delivered to a telegraph company, shall be deemed sufficiently given, served, sent, received or delivered for all purposes at such time as it is delivered to the addressee (with the return receipt, the delivery receipt, or (with respect to a telecopy or telex) the answerback being deemed conclusive, but not exclusive, evidence of such delivery) or at such time as delivery is refused by the addressee upon presentation.

6.8 Counterparts. This Agreement may be executed in two or more counterparts, all of which shall be considered one and the same agreement and each of which shall be deemed an original.

6.9 Governing Law. The interpretation and construction of this Agreement, and all matters relating thereto, shall be governed by the laws of the Commonwealth of Virginia, without regard to the choice of law provisions thereof.

6.10 Consent to Jurisdiction; Enforceability.

(a) This Agreement and the duties and obligations of the parties hereunder shall be enforceable against any of the parties in the courts of the Commonwealth of Virginia. For such purpose, each party hereto and the Protected Partner hereby irrevocably submits to the nonexclusive jurisdiction of such courts and agrees that all claims in respect of this Agreement may be heard and determined in any of such courts.

(b) Each party hereto hereby irrevocably agrees that a final judgment of any of the courts specified above in any action or proceeding relating to this Agreement shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

6.11 Severability. If any part of any provision of this Agreement shall be invalid or unenforceable in any respect, such part shall be ineffective to the extent of such invalidity or unenforceability only, without in any way affecting the remaining parts of such provision or the remaining provisions of this Agreement.

6.12 Costs of Disputes. Except as otherwise expressly set forth in this Agreement, the nonprevailing party in any dispute arising hereunder shall bear and pay the costs and expenses (including, without limitation, reasonable attorneys' fees and expenses) incurred by the prevailing party or parties in connection with resolving such dispute.

6.13 Enforcement by Protected Partners. The Protected Partner is the beneficiary of this Agreement and shall be able to enforce this Agreement as if they were parties to this Agreement.

[Signatures appear on following page]

IN WITNESS WHEREOF, the REIT, the Partnership and the Contributor have caused this Agreement to be signed by their respective officers, general partners, or delegates thereunto duly authorized all as of the date first written above.

WHEELER REAL ESTATE INVESTMENT TRUST,
INC., a Maryland corporation

By: /s/ Jon S. Wheeler
Jon S. Wheeler
President & CEO

WHEELER REIT, L.P.,
a Virginia limited partnership

By: Wheeler Real Estate Investment Trust, Inc., a
Maryland corporation

By: /s/ Jon S. Wheeler
Jon S. Wheeler

Schedule 2.1(a)

Gain Limitation Properties and Estimated Initial Protected Gain for the Protected Partner

<u>Gain Limitation Property</u>	<u>Estimated Initial Amount of Protected Gain Allocable to Protected Partner</u>	<u>Estimated Portion of Estimated Initial Amount of Protected Gain Allocable to Protected Partner that is Section 1250 Recapture</u>
	<i>South Main Street Associates, LLC</i>	
Berkley Shopping Center	\$ 85,986	\$ 56,153
	<i>P&W SC/GA Properties I, LLC</i>	
Sangaree Plaza	\$ 159,528	\$ 107,215
Tri-County Plaza	\$ 115,466	\$ 72,287
Total	\$ 360,980	\$ 235,655

Schedule 2.1(b)

Maximum 704(c) Value to be Used in Computing Protected Gain

<u>Gain Limitation Property</u>	<u>fair market value of the Gain Limitation Property as of the Closing Date (Section 704(c) Value)</u>	<u>Maximum Agreed Value</u>
<i>South Main Street Associates, LLC</i>		
Berkley Shopping Center	\$ 4,241,000	\$ 4,241,000
<i>P&W SC/GA Properties I, LLC</i>		
Sangaree Plaza	\$ 6,265,000	\$ 6,265,000
Tri-County Plaza	\$ 4,500,000	\$ 4,500,000