

ACTION ITEM #3
License Agreement for WA-64
(Leslie Brunelli/Jeremy Tamsen/Sharyl Kammerzell)

June 17, 2024

TO ALL MEMBERS OF THE BOARD OF REGENTS

SUBJECT: License Agreement for WA-64

PROPOSED: That the Board of Regents authorize the University to enter into a license agreement for the commercialization of WA-64, WSU's newest apple variety, and delegate authority to the President or designee to negotiate and execute the contract.

SUBMITTED BY: Leslie Brunelli, Executive Vice President, Finance & Administration/CFO

SUPPORTING
INFORMATION:

WSU owns the U.S. Plant Patent (US PP35177) and U.S. Plant Variety Protection Certificate (PV #202300016) for the new apple variety, WA-64, and is working to develop a trademark brand name for the same. WSU is charged by law with conducting research, and when new inventions arise, making those inventions available through the use of commercial licensees. Licensing WSU intellectual property rights to a third-party commercialization agent to bring the apple to the marketplace allows WSU to receive a share of royalty payments from each apple tree, box of apples, and all processed goods sold under the brand name. Apples are unique among other consumer produce as they are sold by name; therefore, strong trademark branding coupled with strong patent protection is key to capturing the value created through nearly 20 years of plant breeding at WSU. This value protection is made possible through WSU's commercial licensing relationships.

In 1998, the original cross that created the WA-64 apple variety was made by WSU apple breeder Bruce Barritt in the Wenatchee area. In 2022, after decades of careful evaluation, a plant patent was filed. The same year, WSU began discussions about licensing WA-64 with the WSU Cultivar Licensing Committee (WSU CLC), a group comprised of Washington apple industry representatives with the goal of informing WSU decisions regarding apple licensing. Following WSU CLC recommendations and state regulations, WSU posted an Announcement of Opportunity for licensing WA-64 in June 2024, and we received five proposals in response, with two proposals being compliant and thus actionable.

The WSU CLC conducted interviews with both compliant respondents, and following much discussion, in February 2024, WSU entered into negotiations with the successful respondent, the International New-Varieties Network (INN). Having negotiated the agreement to the satisfaction of the state Attorney General's Office, the WSU Office of Commercialization, WSU leadership, the WSU CLC, and the third-party licensee INN, the time has now come for WSU and INN to execute the license agreement for the commercial management and enforcement of WSU's Plant Patent and Plant Variety Protection rights in the new cultivar. This will allow all parties to proceed with the initial steps in the long process of commercialization. For reference, WA-64 trees will be available from Washington nurseries for commercial plantings in 2026, and the first shipments of fresh fruit should begin to arrive in grocers in 2029.

Note that the licensing agreement is separate from a marketing agreement to leverage WSU's rights in the trademark name, which will be developed in the future. We anticipate WSU will issue an Announcement of Opportunity for the marketing contract in 2028 or early 2029, as WA-64 gets closer to consumer availability.

Because the anticipated incoming value of this agreement will exceed the President's current contract delegation of \$5 million, we are requesting that the Regents authorize the University to enter into the license agreement and delegate authority to the President or designee to complete negotiations and execute the contract.

BOARD OF REGENTS

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Resolution #240617-715

WHEREAS, RCW 28B.30.095, RCW 28B.30.100, and RCW 28B.30.150 vest the governance and management of Washington State University (WSU) in the Board of Regents of WSU (Board); and

WHEREAS, the Board, by virtue of RCW 28B.10.528, has the authority to delegate by resolution to the President of WSU, or designee, any of the powers and duties vested in or imposed upon the Board by law;

NOW, THEREFORE, IT IS RESOLVED that the Board authorizes the University to enter into a licensing agreement for the new apple variety, WA-64, and delegates authority to the President or designee to negotiate and execute the contract granting a commercial license to the International New-Varieties Network (INN).

Signed the 17th day of June, 2024.

Chair, Board of Regents

Secretary, Board of Regents