



City of Elkins

Municipal Properties Committee Meeting

April 19, 2023
9:00 AM
401 Davis Avenue
Council Chamber, 2nd Floor

AGENDA

- 1. Call to order and roll call**
- 2. Public comment**
- 3. Minutes**
- 4. Presentation**
- 5. Reports**
- 6. Unfinished business**
- 7. New business**
 - a. Council chamber sound issues
 - b. Review of Industrial Access Road program agreement between West Virginia Division of Highways, Randolph County Development Authority, and City of Elkins for road work related to the RCDA's industrial park expansion
 - c. Preservation Alliance of West Virginia presentation about assisting the city with historic properties
 - d. FY 2024-25 downtown flowers contract
 - e. City hall security
 - f. Recycling hours
 - g. City hall garden maintenance
- 8. Announcements**
- 9. Adjournment**



CITY OF ELKINS AGENDA ITEM REPORT

Meeting Date:	April 19, 2023
Section:	New business
Category:	Action Item
Agenda Item Name:	Council chamber sound issues
Recommended By:	City clerk
Summary:	Attached are two quotes, one for new speakers and one for a "hearing assist" system.
Fiscal Impact:	Hearing assist system cost: \$4,300.00 Speakers cost: \$3,120.00
Recommendation:	All council members report hearing better with the speakers. Recommend the speaker installation instead of the hearing-assist system.
Attachments:	1. City of Elkins Council Chamber Hearing Assist System Quotation 03.24.23 2. City of Elkins Council Meeting Room Speakers Installation Quotation 03.24.23 3. JBL_CBT50LA-1_SpecSheet_022213 4. Listen LS-70-072 01.17.23



1325 DUNBAR AVENUE • P.O. BOX 4 • DUNBAR, WV 25064
PHONE 304-766-6277 • 800-642-5500 • FAX 304-766-6270

CITY OF ELKINS
Council Chamber

March 24, 2023 (*our 76 year*)

QUOTATION NO. 23-0324-MW1

Reference: Hearing Assist System

WE ARE PLEASED TO SUBMIT OUR QUOTATION FOR THE ABOVE PROJECT.

City of Elkins Hearing Assist System

Discounted equipment cost information to furnish video equipment:

Summary of Equipment Cost Information

Total Cost of Equipment\$4,300.00

Please add sales and use taxes if applicable

Terms for the above:

- Above order can be placed using a signed quotation from Winfield Church of Christ.
- Invoice due upon completion of system, invoice net 30 days

Approved By _____ Date _____

Detailed Equipment Bill of Material as follows;

	Hearing Assist System Equipment	
1	LS-70-72	Listen Technologies Hearing Assist Package (To contain 1-LT800 transmitter, 8-LR4200 receivers, 8-neck loop/earphone, 8-ear speakers, 12-unit charging tray & batteries)

Technical Services

1	Lot	Electronic Specialty technician to deliver and set up system at the church.
	Lot	Factory sponsored warranty of two (2) years.

Terms for the above:

- Invoice upon delivery, net 30 days.

Since 1947 Electronic Specialty Company has provided quality local service for life safety & critical communication systems Authorized sales and service for Edwards Fire Alarm equipment since 1964 (now a division of UTC Fire & Security)
ELECTRONIC SPECIALTY COMPANY HAS A "SUBSTANCE DETECTION" POLICY AND A "DRUG FREE" WORKPLACE IN EFFECT.

DELIVERY: Equipment Delivery Date TBD

Your Consideration will be very much appreciated.

FOB: Project Site

ELECTRONIC SPECIALTY COMPANY

TERMS: 30 days, Each Invoice

Authorized by Mark Wood

A/V Manager

This quotation is offered for your acceptance within 15 days



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CITY OF ELKINS

March 24, 2023 (our 76 year)

QUOTATION NO. 23-0324-02

REFERENCE: Council Chamber Room
Speakers

WE ARE PLEASED TO SUBMIT OUR QUOTATION FOR THE ABOVE PROJECT.

City of Elkins Council Chamber Room Speakers

Discounted equipment cost information to furnish sound system equipment & technical services:

Summary of Equipment Cost Information

Summary of Equipment & Technical Services..... \$3,120.00

Terms for the above:

- Invoice upon completion of project, net 30 days each invoice
- Above order can be placed using valid purchase order/signed quotation from City of Elkins.
- Equipment will be brought to site per schedule approved in advance by City of Elkins.

Approved By _____ Date _____ PO# _____

Detailed Equipment Bill of Material as follows;

Sound System Equipment;		
2	CBT50	JBL "Line Array Surface Mount Speakers (left/right)
1	Lot	Speaker Cable & Hardware

Technical Services:		
1	Lot	Owner personnel to pull speaker cable to both new speaker locations (Mark Wood to be on site) and assist Electronic Specialty technician with installing speakers.
1	Lot	Electronic Specialty technicians to assist with installing speakers, terminate pre-pulled speaker cable and test system.
1	Lot	Factory sponsored warranty of three (3) years
1	Lot	One year labor warranty

Proposed Scope of Work:

- ESCOM to install equipment, terminate cables to field devices
- All work will be performed in a workmanlike manner, all trash will be removed daily, and technicians will follow safety guidelines as required and will report in and out as they perform work.
- This work will be performed during normal business hours per schedule approved in advance by the owner.

Terms for the above:

- Invoice upon completion of project, net 30 days

Since 1947 Electronic Specialty Company has provided quality local service for life safety & critical communication systems
 Authorized sales and service for Edwards Fire Alarm equipment since 1964 (now a division of UTC Fire&Security)
ELECTRONIC SPECIALTY COMPANY HAS A "SUBSTANCE DETECTION" POLICY AND A "DRUG FREE" WORKPLACE IN EFFECT.

DELIVERY: Equipment 2 weeks A.R.O. or sooner

Your Consideration will be very much appreciated.

FOB: Project Site

ELECTRONIC SPECIALTY COMPANY

TERMS: 30 days, Each Invoice

Authorized by Mark Wood

A/V Manager

This quotation is offered for your acceptance within 30 days



CBT 50LA-1

Constant Beamwidth Technology™
Line Array Column Loudspeaker
with Eight 50 mm (2 in) Drivers

CBT SERIES

CONSTANT BEAMWIDTH TECHNOLOGY™

Key Features:

- ▶ Patent-pending Constant Beamwidth Technology™ provides constant directivity up to the highest frequencies and reduces out-of-coverage lobing.
- ▶ Switchable voicing provides flat response in music mode or mid-range presence peak in speech mode.
- ▶ Dynamic SonicGuard™ overload protection
- ▶ Built-in 70V/100V transformer, plus 8 ohm direct capability.
- ▶ Swivel (pan) / tilt wall bracket included.

Overview:

The CBT 50LA-1, with Constant Beamwidth Technology™, represents a breakthrough in pattern control, utilizing analog delay beam-forming and amplitude tapering to accomplish consistent vertical coverage without the narrow vertical beaming and out-of-coverage lobing that are typical of straight form-factor passive column speakers.

The slim, compact design fits well into virtually any architectural decor. The combination of superb sound quality, excellent pattern control, and compact (53 cm [20.8 in] tall by 10 cm [3.9 in] wide) design makes CBT 50LA-1 ideal for a wide variety of applications, such as retail stores, concourses, transit spaces, fill applications, conference rooms, architectural spaces, audio for video, lecture halls, and other applications where such a combination is desired.

The voicing can be set to match the application through the Music/Speech switch, conveniently located on the side of the cabinet. The Music setting provides flat frequency response, while the Speech setting produces a mid-range presence boost to provide clear, intelligible speech even at the longest throw distances.

The drivers feature dual neodymium magnets for light weight. Copper-capped pole pieces lower both the driver inductance and the flux modulation. This increases high-frequency extension and reduces distortion at high drive levels. Butyl rubber surrounds provide long life even in high humidity environments. The drivers are shielded.

Dynamic SonicGuard™ minimizes distortion at high drive levels by limiting low frequency excursion dynamically. This maximizes clarity at high drive levels while protecting the drivers from damage due to overpowering.



A swivel (pan) / tilt wall-mount bracket is included and ten M6 inserts on the back panel fit the spacing of common mounting brackets, or can be utilized to suspend the speaker using M6 forged shoulder steel eyebolts, providing versatility of installation.

CBT 50LA-1 can be installed either indoors or outdoors. The drivers are weather-treated, the fiberglass reinforced ABS cabinet with UV resistant paint is excellent for outdoor applications, external screws are stainless steel, and the painted aluminum grille resists rusting in the harshest conditions.

Available in black or white (-WH).

Specifications:

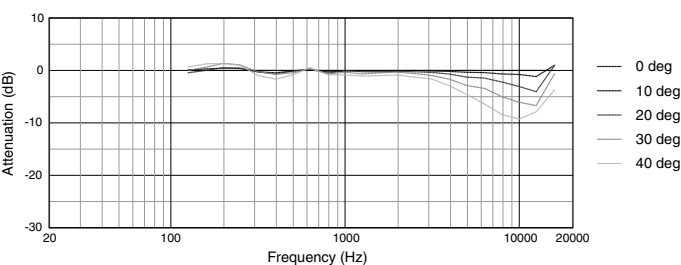
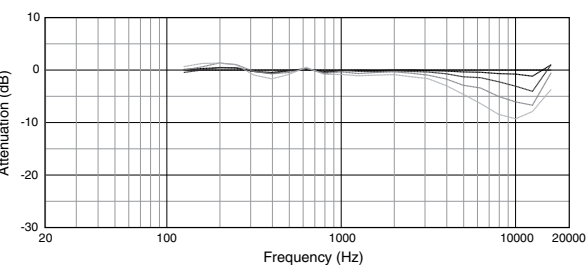
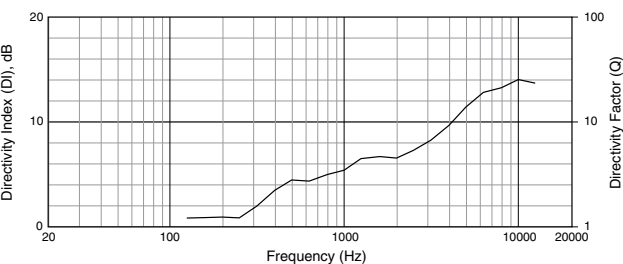
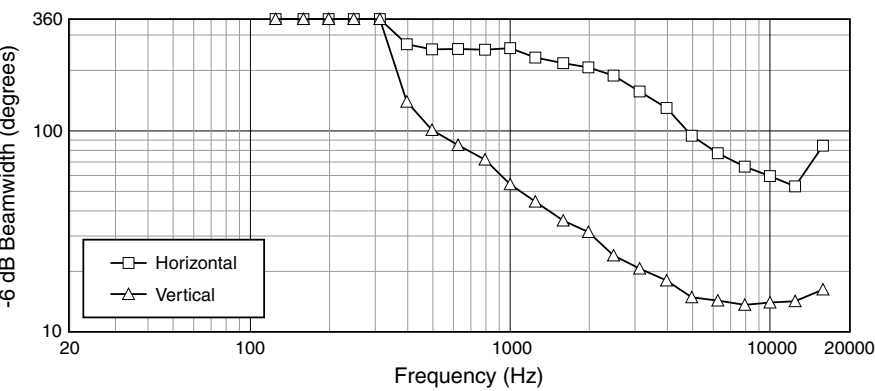
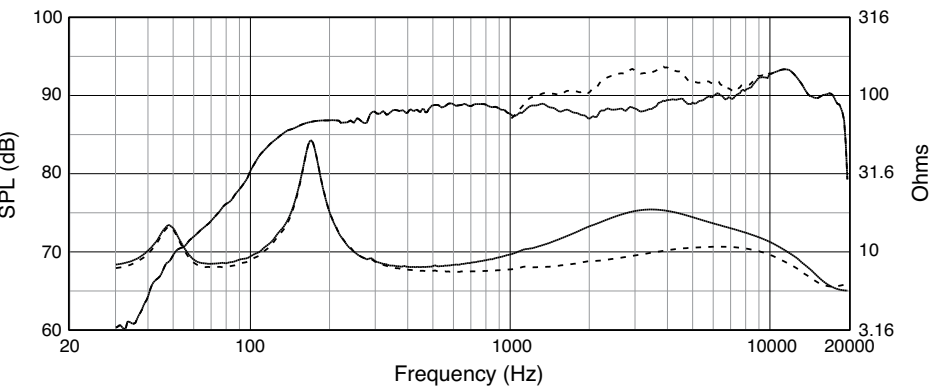
Components:	Eight 50 mm (2 in) Full-Range
Frequency Range (-10 dB) ¹ :	80 Hz - 20 kHz
Coverage Pattern:	Vertical 20° (1.5 kHz - 16 kHz, ±10°) Horizontal 150° (ave, 1 kHz - 4 kHz, ±20°)
Sensitivity (2.83V@ 1m) ¹ :	93 dB (speech mode, 2 kHz - 14 kHz) 89 dB (music mode, 300 Hz - 18 kHz)
Nominal Impedance:	8 ohms
Power Capacity (8 ohm setting) ² :	150W (600W peak), 2 hrs 100 W (400W peak), 100 hrs
Max SPL ³ :	Speech mode: 115 dB cont ave (121 peak) Music mode: 111 dB cont ave (117 peak)
70V/100V Transformer Taps:	60W, 30W, 15W, (7.5W at 70V only), and 8Ω thru, via switch
Enclosure:	Fiberglass reinforced ABS cabinet, painted aluminum grille
Outdoor Capability:	IP-55 rated, per IEC529, when installed with optional MTC-PC2 panel cover. UV, moisture and 200-hr ASTM G85 acid-air/salt-spray resistant.
Colors:	Black or White (-WH)
Insert Points:	Ten M6 swivel (pan)/tilt insert points on back panel.
Mounting:	Included swivel (pan) / tilt wall bracket provides continuously variable +/-80 degree left-right swivel aiming (at no up/down tilt - see Bracket Guide for maximum swivel range at various up/down tilt angles), continuously adjustable ±15 degree tilt, as well as 5 degree fixed increment points within the range. Ten threaded mounting points located on back panel conform to industry standard rectangular 108 x 51 mm (4.25 x 2.0 in) pattern for OmniMount® 30.0 and other compatible third-party brackets. Threaded mounting points can be utilized for suspension.
Dimensions (H x W x D):	528 x 99 x 153 mm (20.8 x 3.9 x 6.0 in)
Net Weight:	4.1 kg (9.0 lb)
Included Accessories:	Swivel (pan) / tilt wall bracket
Optional Accessories:	MTC-PC2 terminal panel cover MTC-CBT-FM1 flush-mount low-profile wall-mount bracket MTC-CBT-SMB1 Stand-Mount Bracket for use with 35 mm speaker stand

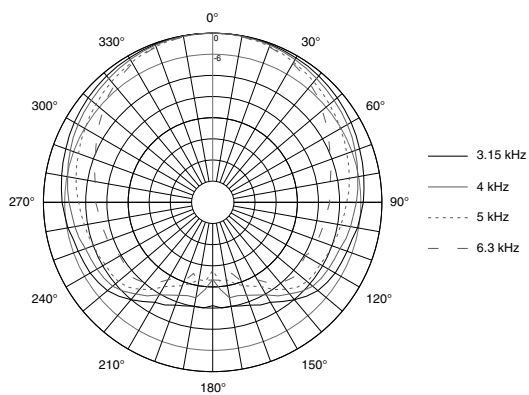
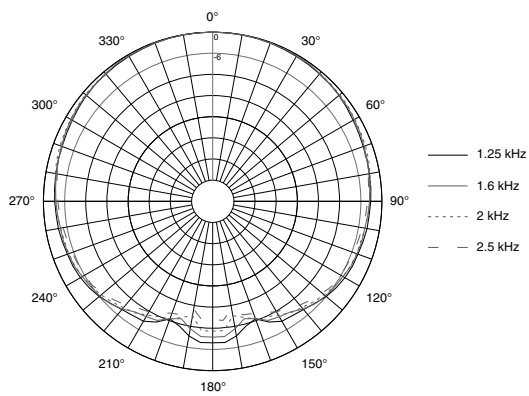
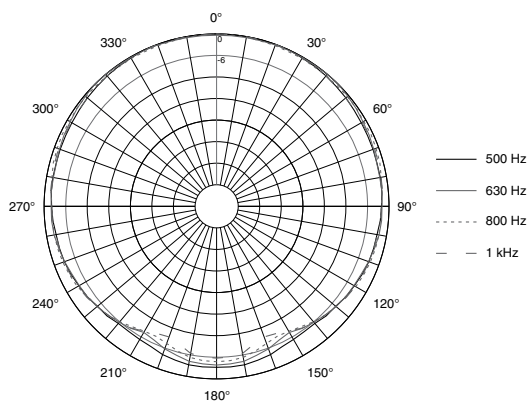
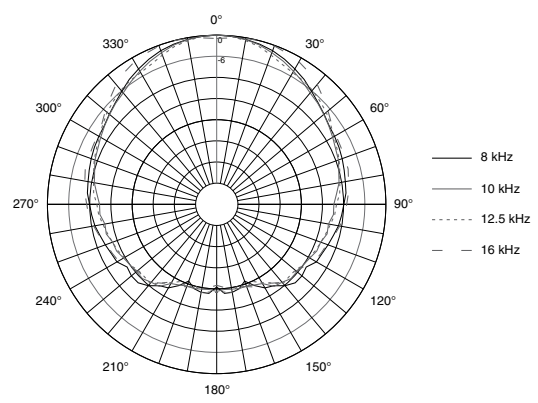
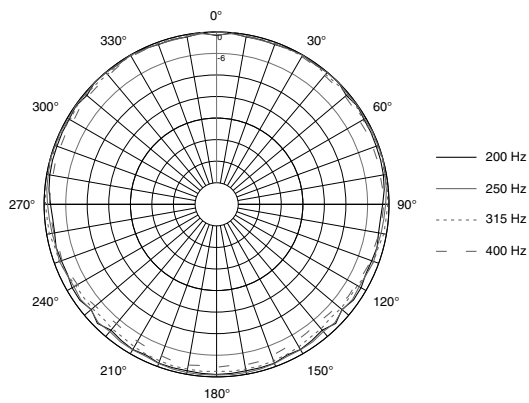
¹Full space

²IEC standard, full bandwidth pink noise with 6 dB crest factor.

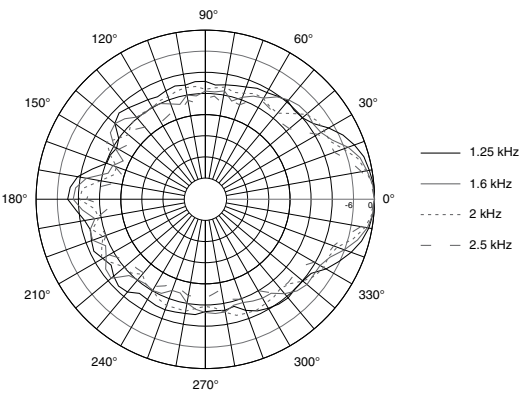
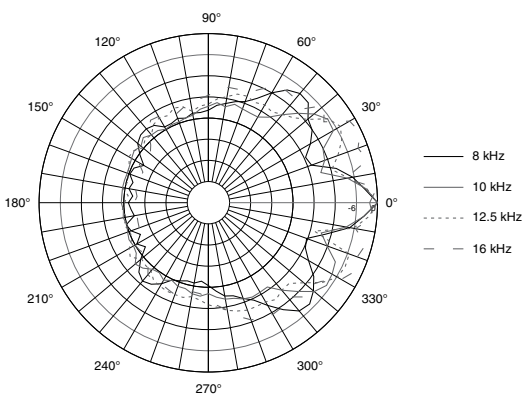
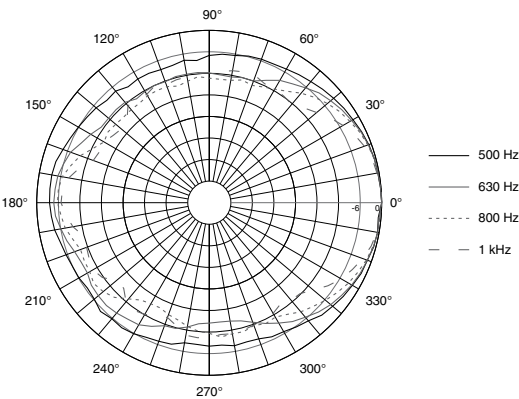
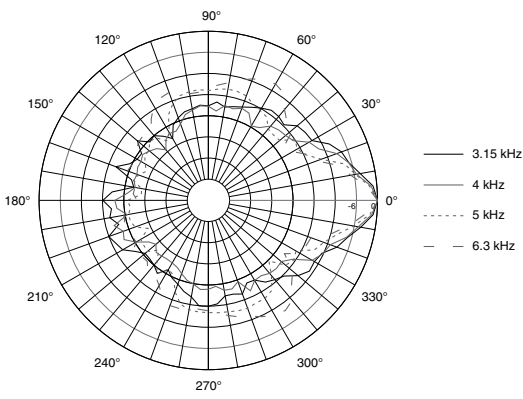
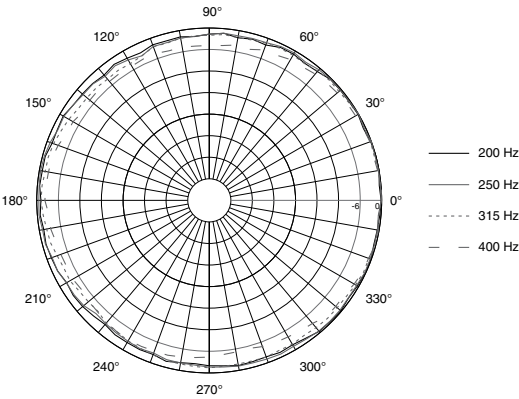
³Calculated based on power rating and measured sensitivity, exclusive of power compression.

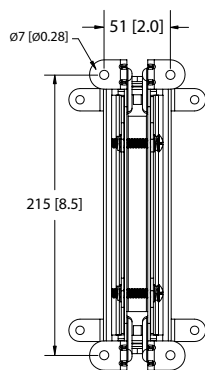
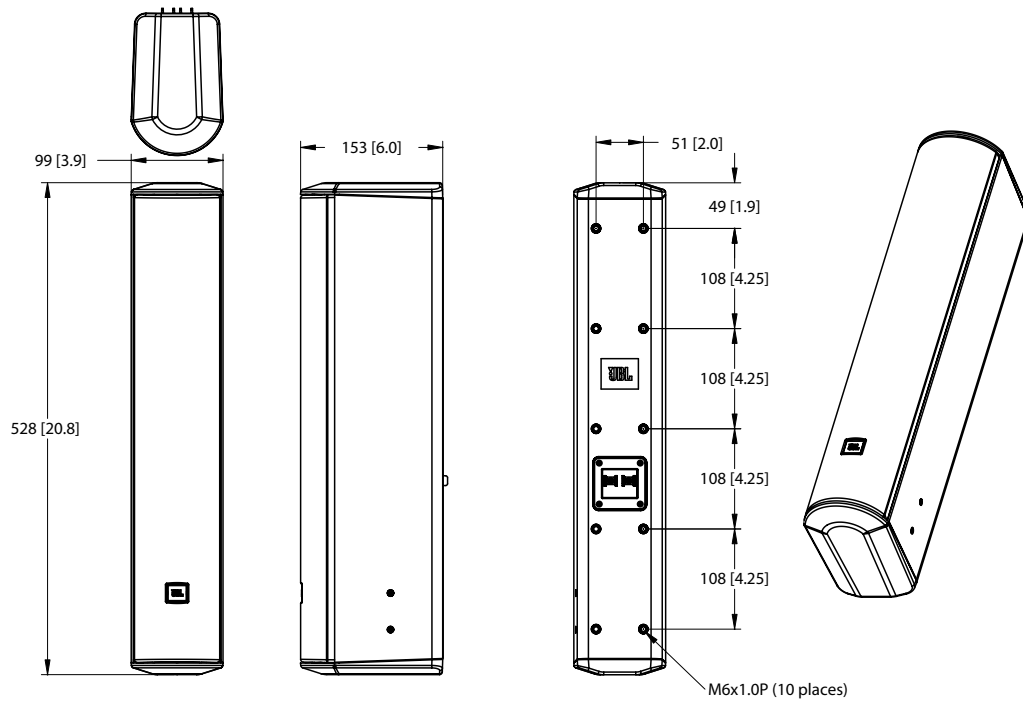
CBT 50LA-1 Line Array Column Loudspeaker with Eight 50 mm (2 in) Drivers



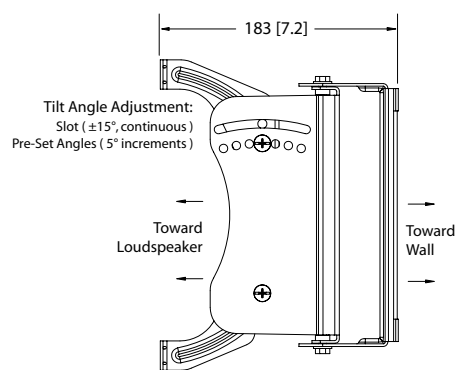


CBT 50LA-1 Line Array Column Loudspeaker with Eight 50 mm (2 in) Drivers

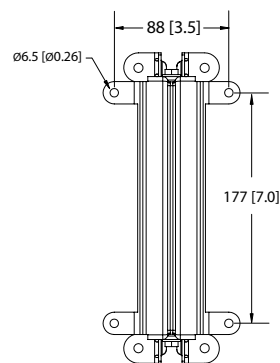




Loudspeaker-Mount
Section



Assembled Bracket



Wall-Mount
Section



JBL Professional
8500 Balboa Boulevard, P.O. Box 2200
Northridge, California 91329 U.S.A.

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Configuration:

LS-70-072 Listen iDSP Prime Level IV
Stationary RF System (72 MHz)

Product Overview:

Offering coverage up to 457.2 m (1,500 ft.), the LS-70 Stationary RF System from Listen Technologies is an ideal way to provide assistive listening in larger venues as quickly as possible. The complete package includes our LT-800-072 Stationary RF transmitter and four of our best-in-class LR-4200-072 iDSP receivers, as well as everything else you need to get set up immediately.

The LS-70 system also includes our LA-381 Intelligent 12-unit charging tray, which provides plenty of capacity for charging, storing, and managing up to twelve (12) receivers. The high-capacity tray allows room for upgrading and expanding your RF system as the demands of your venue grow.

The LS-70 package also includes an assistive listening notification signage kit, cable management unit, log book, and more, all in one convenient starter system.

Highlights:

- Advanced DSP SQTM noise reduction technology delivers 20 dB less noise and hiss than any other listening device
- Integrated neck loop / lanyard with DSP loop driver improves the listening experience for T-coil users
- Smallest device of its kind makes it easier to wear and for venues to dispense, store and maintain
- Advanced green battery technology dramatically reduces costs of ownership and hassles while reducing the number of batteries in the landfill
- Includes drop-in charging/dispensing station for streamlined dispensing, collecting and care of up to (12) iDSP RF listening devices
- Ensures public venues deliver an exceptional listening experience while meeting new legislative requirements for assistive listening

Includes:

One (1) LT-800-072-01 Stationary RF Transmitter (72 MHz)
One (1) LA-326 Universal Rack Mounting Kit
One (1) LA-122 Universal Antenna Kit (72 MHz and 216 MHz)
Four (4) LR-4200-072 Intelligent DSP RF Receiver (72 MHz)
Four (4) LA-430 Intelligent Earphone/Neck Loop Lanyard
Four (4) LA-401 Universal Ear Speaker
One (1) LA-381-01 Intelligent 12-Unit Charging Tray
One (1) LA-382 Intelligent Cable Management Unit
One (1) LA-422 USB to Micro USB Cable
One (1) LA-904 Listen Dispensing Log Book
One (1) LA-304 Assistive Listening Notification Signage Kit
One (1) LPT-A107-B Dual RCA to Dual RCA Cable 6.6 ft. (2 m)

Product Specification: Listen iDSP Prime Level IV Stationary RF System (72 MHz)	
Physical	
Shipping Weight	25.0 lbs. (11.34 kg)



CITY OF ELKINS AGENDA ITEM REPORT

Meeting Date:	April 19, 2023
Section:	New business
Category:	Action Item
Agenda Item Name:	Review of Industrial Access Road program agreement between West Virginia Division of Highways, Randolph County Development Authority, and City of Elkins for road work related to the RCDA's industrial park expansion
Recommended By:	Referred to this committee by council for initial review.
Summary:	From city attorney: This is the final version of the agreement with the DOH for this Industrial Park Access Road and for the funding. As part of this process, which began in 2022, the City had to agree to give up its rights to certain public rights of way because of the State law concerning access to industrial parks. The Agreement provides that the City will transfer these specific parts of public roadways via a special warranty deed to the DOH without compensation. After completion of the project and acceptance by the DOH, it will, at no cost to the City, provide snow removal and ice control.
Fiscal Impact:	There are no direct costs associated with this transfer.
Recommendation:	Vote to recommend council approval.
Attachments:	1. IAR Grant Agreement - Final Version

**WEST VIRGINIA
DEPARTMENT OF TRANSPORTATION
DIVISION OF HIGHWAYS
AGREEMENT
RANDOLPH COUNTY INDUSTRIAL PARK
INDUSTRIAL ACCESS ROAD
RANDOLPH COUNTY**

THIS AGREEMENT, executed in triplicate, made and entered into this _____ day of _____, 20_____, by and between the West Virginia Department of Transportation, Division of Highways, hereinafter called “Division,” the Randolph County Development Authority, 10 11th Street, Suite A, Elkins, West Virginia 26241, hereinafter called “RCDA,” and the City of Elkins, a West Virginia municipality, 401 Davis Avenue, Elkins West Virginia 26241, hereinafter called “City,”

WITNESSETH that,

WHEREAS, RCDA desires the participation of Division in the implementation of an Industrial Access Road project that will provide access for the Randolph County Industrial Park (hereinafter “Park”) in Elkins, Randolph County; and

WHEREAS, RCDA has submitted an Industrial Access Road application and has provided assurance to the extent practicable that industrial investment is to occur, and the Randolph County Commission has, by resolution dated June 2, 2022, endorsed and supported the construction of said Industrial Access Road project; and

WHEREAS, Division considers it to be in the public interest to participate in this project, which furthers economic development in West Virginia and promotes a safe and efficient transportation system, and has approved the use of Fiscal Year 2022 Industrial Access Road funds;

NOW, THEREFORE, in consideration of the above premises and in further consideration of the agreement herein set forth by and between the parties hereto, it is mutually agreed as follows:

- I. RCDA is to submit for Division’s review and approval appropriate construction plans and related documents, which collectively are referred to as the “Plans,” for the performance of work that will be implemented through RCDA and for which Division will utilize Industrial Access Road funds to reimburse, to a maximum amount specified in this Agreement, actual eligible expenses incurred by RCDA. The scope of RCDA’s work, as it pertains to the State Highway System and which hereinafter is called “IAR Project,” is to consist primarily of, but is not necessarily limited to, the modification of approximately 0.04 miles of existing roadway (“Riverbend Park Road”) currently under the jurisdiction of the City, and construction of a new roadway extending approximately 0.02 mile from Riverbend Park Road to a dead end near the railroad owned by the West Virginia Division of Multimodal Transportation Facilities adjacent to the Park. No rail crossing is to be implemented under the terms of this Agreement. Division reserves the right to require RCDA to conduct, at RCDA’s expense, prior to construction of Project, a public informational meeting regarding IAR Project.

- II. As part of submission of Plans, RCDA shall provide Division with site plans identifying grading, drainage, access, lot layout, utilities, signing and other pertinent features of the Park. Any signing associated with Park and its tenants shall conform to Division's guidelines and with all pertinent outdoor advertising rules and regulations.
- III. The Plans are subject to the review and approval of Division and are to be developed, to the extent practicable, in accordance with Division's current Design Directives, criteria, and guidelines. Division's approvals, if given, shall be in writing.
- IV. For IAR Project, RCDA shall secure the approvals and/or permits, if any, required by other governmental agencies, and shall comply with all applicable Federal, State, and local environmental laws and regulations. Prior to any reimbursement by Division of any construction costs incurred by RCDA for IAR Project, RCDA shall furnish Division with acceptable documentation of such approvals, permits, and compliance. RCDA shall be responsible for coordinating with and obtaining any necessary approvals from the West Virginia Division of Multimodal Transportation Facilities concerning work pertaining to the railroad adjacent to Park.
- V. The implementation of IAR Project will necessitate additional right-of-way and possibly other easements to be obtained by Division. All right-of-way and any easements necessary for IAR Project shall be clearly indicated on RCDA's Plans. RCDA may be required to submit for Division's approval separate Right-of-Way plans that would be prepared in accordance with Division's Design Directives. RCDA shall verify, as part of the development of Right-of-Way plans, ownership of the surface rights and interest sufficient for public highway purposes pertaining to all properties from which additional right-of-way and easements are to be conveyed.
 - A. City shall convey to Division Riverbend Park Road between CR 219/34 and the intersecting point of the proposed new roadway to be constructed as part of IAR Project. City agrees to convey to Division, waiving its right to payment of just compensation in eminent domain for all property and property interests conveyed, as well as for all damages to the abutting property not conveyed, from City's property the additional right-of-way and any necessary easements including, without limitation, rights of subjacent and lateral support, as indicated on the Plans, free and clear of all encumbrances with covenants of a special warranty unless otherwise agreed by Division, and subject to the approval of the West Virginia Board of Public Works (hereinafter the "WVBPW").
 - B. As necessary for IAR Project, RCDA shall obtain, in RCDA's name and in accordance with Division's acquisition procedures and regulations, any right-of-way or other easements from any other property. RCDA agrees to convey to Division, waiving its right to payment of just compensation in eminent domain for all property and property interests conveyed, as well as for all damages to the abutting property not conveyed, from RCDA's property the additional right-of-way and any necessary easements including, without limitation, rights of subjacent and lateral support, as indicated on the Plans, free and clear of all encumbrances with covenants of general warranty unless otherwise agreed by Division, and subject to the approval of the West Virginia Board of Public Works (hereinafter the "WVBPW").
 - C. In the event the WVBPW does not approve the donation by RCDA or by City to Division and instead requires that RCDA or City be compensated for the right-of-way, Division then may utilize, subject to written concurrence of the RCDA, whatever amount of Industrial Access Road funds approved by Division for IAR Project is necessary for Division to acquire, in Division's name and in accordance

with Division's acquisition process, the right-of-way or easements necessary for IAR Project that otherwise would have been conveyed to Division by RCDA or City. Any cost incurred by Division for appraisals or residential relocations that may be necessary in this event shall be paid utilizing the Industrial Access Road funds approved by Division for the IAR Project. Division shall notify RCDA if Division's total cost of acquisition of right-of-way, including any cost to obtain appraisals, is expected to exceed three hundred thousand dollars (\$300,000.00).

- VI. Prior to reimbursement by Division to RCDA of more than one hundred thousand dollars (\$100,000.00) for construction costs associated with IAR Project and prior to Division's acceptance of construction of IAR Project and release by Division of any bond that may be provided by RCDA as part of the issuance by Division of an encroachment permit, RCDA and City shall convey to Division the right-of-way and any easements necessary as described in Paragraph V. of this Agreement.
- VII. RCDA is to provide for Division's review and approval appropriate legal descriptions and plats, prepared in accordance with Division's Design Directives, necessary for the conveyance to Division of right-of-way. After the legal descriptions and plats have been approved by Division, Division then shall prepare and cause to be recorded appropriate conveyance documents in the Office of the Randolph County Clerk.
- VIII. Prior to construction of IAR Project, RCDA shall be responsible for ensuring that all necessary relocation or adjustment of utilities associated with IAR Project is completed. Division shall bear none of the cost of such relocation or adjustment, or installation of any new utility within Park. All utility work within Division's right-of-way shall be performed in accordance with the West Virginia Division of Highways manual entitled, *Accommodation of Utilities on Highway Right of Way and Adjustment and Relocation of Utility Facilities on Highway Projects, June 2007*, or later version.
- IX. RCDA may install utilities as part of construction of IAR Project, however RCDA shall be responsible for all utility costs for such construction and Division shall have no financial obligation for the cost of utility installation. If RCDA installs or allows to be installed any such utility prior to acquisition by Division of the right-of-way associated with IAR Project, Division shall have no financial obligations or liability regarding any relocation of such utility that may be necessary in the future, nor any liability in eminent domain or otherwise for any taking of or damage to the RCDA's facilities, and RCDA agrees that RCDA shall be entirely responsible for such financial obligations, including any cost of design/engineering, construction, inspection, traffic control and any other activities necessary for such relocation. All occupancy of Division's right-of-way must be in accordance with the Division's policies and rules governing accommodation of utilities, except as may be provided in this Agreement.
- X. After receipt of Division's written approval of the Plans pertaining to IAR Project, after RCDA obtains from Division any necessary encroachment permit, and after Division provides to RCDA authorization to proceed with construction and related work, RCDA then shall administer the construction of IAR Project in the manner that follows.
 - A. RCDA shall advertise a construction contract for competitive bid, which contract shall include provisions regarding the payment by RCDA of any applicable State or Federal prevailing wage rates and conformance with the West Virginia Jobs Act.
 - B. RCDA shall accept and open bids.

- C. After opening bids, RCDA shall provide to Division a summary of the bids received, the RCDA's engineer estimate, and the RCDA's recommended award of the construction contract.
 - D. After obtaining Division's concurrence with RCDA's proposed award of the construction contract, RCDA then may, if desired, award and administer the construction contract for IAR Project.
- XI. For IAR Project, RCDA shall provide construction inspection and materials acceptance. RCDA shall provide to Division, as part of RCDA's submission of invoices for reimbursement, copies of all daily inspection reports and copies of materials certifications corresponding to the work performed for which the RCDA requests reimbursement for IAR Project.
- XII. Division's authorization to proceed is contingent upon receipt of any Federal Highway Administration approval and authorization that may be required and upon RCDA's compliance with all stipulations and requirements set forth herein.
- XIII. RCDA, and its Contractors and Subcontractors, shall furnish evidence of having at least the minimum amounts of insurance required of the Contractor in Section 103.6 through and including Section 103.6.5 of the *West Virginia Division of Highways, Standard Specifications, Roads and Bridges, Adopted 2017* (hereinafter the "Standard Specifications"), and supplements thereto for any work arising from, relating to or pertaining to, in any way, the IAR Project. RCDA shall require that its Contractor(s) and Subcontractor(s) have current West Virginia contractor's licenses and are authorized by the West Virginia Secretary of State to conduct business in West Virginia. The RCDA shall name the Division as an additional insured on all policies of insurance required by the Standard Specifications, except for worker's compensation. The RCDA shall require that its Contractor(s) and Subcontractor(s) shall name the Division as an additional insured on all policies of insurance, except worker's compensation.
- XIV. Funding for IAR Project shall be provided and administered in the manner that follows.
- A. Using a maximum of two hundred eighty thousand dollars (\$280,000.00) in Unmatched FY 2022 Industrial Access Road funds, Division may reimburse RCDA for one hundred percent (100%) of the actual eligible construction costs incurred by RCDA. Division's maximum amount payable for IAR Project under the terms of this Agreement is two hundred eighty thousand dollars (\$280,000.00), without a supplemental agreement.
 - B. RCDA initially shall bear the cost of IAR Project. Upon submission by RCDA to Division of properly documented invoices that clearly identify the actual cost incurred by RCDA for construction of IAR Project, which invoices shall include copies of payments made by RCDA to its IAR Project consultant (associated only with construction) or Contractor, Division then shall reimburse RCDA for the actual eligible construction costs of IAR Project. Division shall reimburse RCDA no more than one hundred thousand dollars (\$100,000.00) until the conveyance to Division of all right-of-way and easements associated with IAR Project is complete, subject to the provisions of Paragraph V. of this Agreement.
 - C. RCDA may submit invoices for reimbursement at any time during IAR Project construction, but no more frequently than monthly. RCDA shall clearly indicate Final Invoice, when appropriate.
 - D. For IAR Project, Division shall have no financial responsibility for the cost associated with:
 - 1. utility installation, relocation, or adjustment.

2. acquisition of right-of-way or easements, unless Division purchases right-of-way subject to the provisions of Paragraph V. of this Agreement.
 3. site development associated with industrial or other parcel(s) within or adjacent to Park.
 4. preparation of Plans for IAR Project.
 5. construction that is performed prior to receipt by RCDA of written approval of and notice to proceed from Division.
 6. any construction activities that are performed by any entity not procured through appropriate competitive bidding.
 7. any cost that is not an allowable use of the Industrial Access Road Fund pursuant to the provisions of West Virginia Code Chapter 17, Article 3A.
- E. At the time of application for IAR funds, RCDA identified total qualified industrial investment of nine hundred fifty-seven thousand five hundred dollars (\$957,500.00) for IAR Project. Prior to advertisement by Division of a construction contract for IAR Project, RCDA shall submit to Division a surety acceptable to Division in the amount of one hundred eighty-four thousand two hundred fifty dollars (\$184,250.00) with corporate surety licensed to do business in the State of West Virginia and approved by Division. This surety shall be conditioned upon RCDA, within five (5) years of the date Division opens to public travel the new roadway constructed under the terms of this Agreement, constructing or having constructed an industrial site, as described in Chapter 17, Article 3A of the West Virginia Code, acceptable to Division, that would constitute an additional total qualified investment within the property served by the new roadway amounting to one million eight hundred forty-two thousand five hundred dollars (\$1,842,500.00), which is over and above the present nine hundred fifty-seven thousand five hundred dollars (\$957,500.00) investment, as ascertained by financial records. If no industrial site acceptable to Division is constructed and the required total qualified investment is not fulfilled within the period specified, then the surety shall be proportionally forfeited based on the ratio that the total investment within said five (5) years bears to the required two million eight hundred thousand dollar (\$2,800,000.00) total qualified industrial investment.
- XV. Any construction Change Order that will increase the cost of IAR Project, or any proposed revision of Plans, must be approved by Division prior to the performance of any work associated with such Change Order or any revision to the Plans.
- XVI. If a provision of this Agreement is or becomes illegal, invalid or unenforceable in any jurisdiction, that shall not affect:
- A. the validity or enforceability in that jurisdiction of any other provision of this Agreement; or
 - B. the validity or enforceability in other jurisdictions of that or any other provision of this Agreement.
- XVII. To the fullest extent permitted by law, RCDA at all times does, and shall, assume all risks of damage to its property, and property of others, and injury or death to all persons (including, but not limited to, any employee or agent of RCDA, Contractor or Subcontractor) resulting directly, indirectly or otherwise by (a) the actions or omissions of RCDA, any Contractor or any Subcontractor, or their respective agents and employees, (b) by any condition of the property, (c) by any failure of RCDA, any Contractor or any Subcontractor, or their respective agents and employees, to comply with any applicable law, rule, regulations or order of any governmental authority, or to comply with any

provision of this Agreement, or (d) by any other cause related to performance of work hereunder by RCDA, RCDA's Contractor, or RCDA's Subcontractor, including maintenance of the roadway or failure to maintain the roadway as required by this Agreement. RCDA hereby acknowledges that the allocation of risk set forth in this provision of the Agreement is a part of the consideration to be provided to Division by RCDA for performance of this Agreement.

- XVIII. Division may terminate this Agreement upon thirty (30) days' written notice to RCDA. Upon termination, Division shall be liable only for payment in accordance with the terms of this Agreement for work performed or costs irrevocably obligated prior to the effective date of termination.
- XIX. Division shall have the right to make reasonable use of RCDA's property and City property for purposes of ingress and egress at the site as may be necessary for Division's periodic review of IAR Project.
- XX. RCDA shall properly maintain the new roadway section until such time Division accepts construction of the IAR Project. After acceptance by Division of the construction of IAR Project, RCDA shall have no authority over or any maintenance responsibility for the new roadway to be constructed under the terms of this Agreement. After completion of the IAR Project, Division agrees to provide, at no cost to City, snow removal and ice control along Riverbend Park Drive.
- XXI. RCDA shall ensure that pavement markings and signing in conformance with the current Manual on Uniform Traffic Control Devices are installed and adequately maintained along all non-Division roadways open to the public within Park for as long as any portion of Park is occupied. RCDA shall address to the satisfaction of Division issues pertaining to Park that Division notifies RCDA represent a public safety or traffic operation concern.
- XXII. This Agreement shall be binding upon the successors and assigns of each party hereto. This agreement may not be assigned without the prior written consent of Division.
- XXIII. This Agreement constitutes the entire understanding and agreement of the parties with respect to its subject matter and supersedes all prior and contemporaneous agreements or understandings, inducements or conditions, express or implied, written or oral, between the parties.
- XXIV. Any term or provision of this Agreement may be amended, and the observance of any term of this Agreement may be waived, only by a writing signed by the party to be bound. The waiver by a party of any breach or default in performance shall not be deemed to constitute a waiver of any other or succeeding breach or default. The failure of any party to enforce any of the provisions hereof shall not be construed to be a waiver of the right of such party thereafter to enforce such provisions.
- XXV. Any resolution of the RCDA or City Council necessary to authorize compliance with the terms of this Agreement is attached hereto. In the absence of any such attached resolution, the duly authorized officer by whose signature RCDA and City enter this Agreement warrant that no such resolution is necessary.
- XXVI. This Agreement is entered in and shall be construed in accordance with the laws of the State of West Virginia.

IN WITNESS WHEREOF, the parties hereto have caused their respective names to be signed by their duly authorized officers.

WEST VIRGINIA
DEPARTMENT OF TRANSPORTATION,
DIVISION OF HIGHWAYS

APPROVED AS TO FORM THIS
6 DAY April, 2023,
ATTORNEY LEGAL DIVISION
WEST VIRGINIA DEPARTMENT
OF TRANSPORTATION
DIVISION OF HIGHWAYS

David A. Foy
Legal Division Contract No. 2304004

By: Jimmy Wriston, P. E.
Secretary of Transportation/
Commissioner of Highways

RANDOLPH COUNTY
DEVELOPMENT AUTHORITY

(signature)
By: _____
(printed name)
Title: _____
(printed title)

CITY OF ELKINS

(signature)
By: _____
(printed name)
Title: _____
(printed title)

(To be executed in triplicate)

Distribution: Master File
RCDA
City



CITY OF ELKINS AGENDA ITEM REPORT

Meeting Date:	April 19, 2023
Section:	New business
Category:	Action Item
Agenda Item Name:	FY 2024-25 downtown flowers contract
Recommended By:	Committee Chair
Summary:	Discussion regarding the 2024 flower contract, especially how to obtain a more detailed quote from the successful bidder.
Fiscal Impact:	2025 budget
Recommendation:	Per committee chair, discuss different options with this contract
Attachments:	None