

1 IN THE CIRCUIT COURT OF THE STATE OF OREGON

2 FOR THE COUNTY OF MULTNOMAH

3 BIKELOUD PDX, an Oregon Non-profit
4 Corporation; Kathryn Gavula, an Individual;
5 Petra Whitacre, an Individual; Edward
6 Gorman, an Individual; Douglas Eichelberger,
7 an Individual; Allan Rudwick, an Individual;
8 Taizz Medalia, an Individual; Robert Burchett,
9 an Individual; Ted Whitney, an Individual;
10 Steven Acker, an Individual; Lynda Bishop, an
11 Individual; Shambra Jennings, an Individual;
12 Daniel Fuller, an Individual; Mark Ontiveros,
13 an Individual; Max Woodbury, an Individual;
14 and Karen Frost, an Individual,

15 Plaintiffs,

16 v.

17 THE CITY OF PORTLAND, by and through
18 its Commissioners Rene Gonzalez, Mingus
19 Mapps, Carmen Rubio, Dan Ryan, and Mayor
20 Ted Wheeler, in their official capacities,

21 Defendants.

Case No. 22CV39601

AMENDED COMPLAINT
(Declaratory and Injunctive Relief)

**Claims Not Subject to
Mandatory Arbitration**

Amount claimed (ORS 21.160(1)(c)):
Declaratory and Injunctive Relief

22 Plaintiff alleges as follows:

23 **INTRODUCTION**

24 1.

25 Despite “Vision Zero” goals adopted by the Portland City Council, fatal and serious
26 crashes in Portland continue to rise, including crashes harming children, elders, and other adults
walking, riding bicycles, and using mobility devices.

2.0

Despite goals adopted by the Portland City Council to address climate change and make
neighborhoods livable by reducing reliance on single-occupancy vehicles and reducing pollutant
emissions, the percentage of trips taken by single-occupancy vehicles continues to rise.

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3.

Further, despite specific “mode share” goals adopted by the Portland City Council for Portlanders to use bicycles for 25% of trips by 2035—and rapid progress in cities that have built safe infrastructure—bicycle mode share in Portland has stagnated below 7% and begun to decline.

4.

Research by the City of Portland indicates that approximately 60% of Portlanders want to be able to ride bicycles but are afraid to do so.

5.

Portland’s safety, climate, and livability failures should come as no surprise in significant part because the City of Portland has not only failed to implement its Council-approved Plans to provide safe places for people to bicycle, walk, and use mobility devices on and around Portland streets; the City of Portland has failed to meet its most basic legal obligations to provide safe streets.

6.

Among those most basic legal obligations, since 1971, is the duty to provide pedestrian and bicycle facilities when streets are constructed, reconstructed, or relocated pursuant to ORS 366.514, known as the “Pedestrian and Bicycle Bill.”

7.

As detailed herein, since 1971, the City of Portland (a) has failed to adopt any policies or procedures to implement its obligations under the Pedestrian and Bicycle Bill, and (b) has systematically failed to comply with ORS 366.514.

8.

By this action, Plaintiff seeks a declaration of rights and a Judgment directing Defendant to comply with the statute.

///

1 ///

2 **PARTIES**

3 9.

4 At all material times, BikeLoudPDX (hereinafter “BikeLoud”) is a non-profit Oregon
5 corporation, organized and existing under the laws of the State of Oregon. BikeLoud was created
6 with the mission to ensure that Portland follows its own goal to make the city a place where one
7 quarter of all of our trips are done on bicycles. Since its founding in 2014, BikeLoud and its
8 members have advocated for safe, convenient infrastructure for people in Portland to be able to
9 ride bicycles safely. Its activities include advocacy for Safe Routes to School, bikeway
10 maintenance, and vehicle speed reduction, in addition to organizing rides and raising awareness
11 following preventable crashes that continue to kill people riding bicycles, walking, and using
12 mobility devices on public rights-of way in Portland. Further, BikeLoud, through its approximately
13 250 members, advocates for a safe and complete bicycle network by writing letters in support of
14 improvements, testifying at hearings, meeting with elected leaders, and taking transportation
15 decision-makers on policy rides.

16 10.

17 Members of BikeLoud regularly use or attempt to use streets throughout Portland,
18 including but not limited to one or more of the initially-identified locations named in Paragraph
19 36 of this Complaint while walking or riding bicycles. In the general population, only 2.8% percent
20 of Portland commuters go by bicycle. Among BikeLoud's members that percentage is over 90%.

21 11.

22 BikeLoud and its members are substantially affected by the City of Portland’s compliance
23 or non-compliance with the Pedestrian and Bicycle Bill in their safety, their ability to use Portland
24 streets, and their ability to promote use of bicycles, walking, and rolling on public rights-of-way
25 as a safe and viable option in Portland.

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12.

Plaintiff Kathryn Gavula is a Portland resident with a particularized interest in having bicycle facilities, including those listed in the initially identified locations listed in Paragraph 36, where defendant City of Portland has failed to provide bicycle and/or pedestrian facilities are required by ORS 366.514 as alleged herein. Ms. Gavula lives east of Mt. Tabor in SE Portland. She commutes by bicycle several days each week to her place of employment in Northwest Portland, which is more than seven miles each way. She also takes her three children to school in East Portland on bicycles. Her commute route, or routes that she would ride on a regular basis if bicycle facilities allowing safe passage existed, include the Hoyt Yards area of the Pearl District in Northwest Portland, and SE Hawthorne. Additionally, SE 82nd Avenue is one of few continuous north-south streets in the area where she lives. Being unable to use or cross it safely on a bicycle subjects Ms. Gavula and her family to ongoing danger and inconvenience, as well.

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Defendant's failure to provide a complete, connected, and safe network of bikeways further limits and discourages the ability of Ms. Gavula and her family, despite dedicated efforts, to phase out the financial and environmental costs of owning and using a car for transportation. As her efforts described herein demonstrate, Ms. Gavula believes it is important to teach her children to ride and commute by bicycle. However, she fears that there is no safe way to do this given the routes that she must ride, and the places she cannot ride due to missing infrastructure that has not been built and will not be built if the Court does not provide the relief sought herein.

14.

Plaintiff Petra Whitacre lives in North Portland in the Piedmont Neighborhood. She commutes by bicycle four days a week to her workplace in the Good Samaritan Hospital area of Northwest Portland. She has commuted by bicycle in Portland for over 20 years and has lived in many areas of the city. In addition, she rides for non-commute purposes several days a week, including for health, well-being, and pleasure. Her experience as a person who rides extensively

1 in Portland is that despite existing laws and the City's Vision Zero initiative, streets in Portland
2 are becoming increasingly unsafe for people to ride bicycles. Her regular riding routes affected by
3 the outcome of this lawsuit include NW 13th Avenue, NE Martin Luther King Jr. Blvd, the Hoyt
4 Yards area of the Pearl District, NW Kearney St, and NW Johnson St.

5
6 15.

7 Plaintiff Edward Gorman lives in the Rose City Park neighborhood of NE Portland. He
8 commuted to and from work by bicycle from 2008 until his retirement and continues to ride his
9 bicycle for health and fitness, and to run errands, including shopping at the WinCo on NE 102nd
10 and the Costco on NE 138th. He rides the overpasses over I-205 at NE Glisan, NE Prescott, and
11 NE Sandy, where missing facilities require him to ride with cars, lift his bicycle up onto a curb,
12 slow or stop for pedestrians because there are not facilities for both, ride on a dirt shoulder on a
13 curve, and avoid connecting streets that lack safe places to ride. Mr. Gorman has advocated for
14 safe bicycle infrastructure in his neighborhood and city-wide for decades. Mr. Gorman lives with
15 the permanent effects of physical injuries that required multiple surgeries (not sought as damages
16 in this lawsuit) that resulted from a collision with a vehicle where the City of Portland failed to
17 provide a proper bicycle facility on a street in SE Portland.

18 16.

19 Plaintiff Douglas Eichelberger lives with his family near SE Hawthorne and 33rd Avenue
20 in SE Portland. Mr. Eichelberger rides an e-bicycle to take his eight-year-old daughter to school
21 every day, and for errands. The lack of safe facilities on SE Hawthorne means that Mr.
22 Eichelberger and his family are deprived of use of that street, and means that they are subjected to
23 unacceptable risk every time they must cross that street, because defendant's design and operation
24 of that street fail to accommodate the needs of people using bicycles. Due to the lack of safe
25 facilities on SE Hawthorne and other key Portland streets that they must use (or avoid), Mr.
26 Eichelberger and his family feel compelled to own and use a car for many trips, resulting in
significant losses to their health, quality of life, and family finances.

1 17.

2 Plaintiff Allan Rudwick lives on NE Morris Street and commutes by bicycle three to four
3 days per week to his workplace at NW 9th and Northrup. Mr. Rudwick also rides his children by
4 bicycle to daycare at OHSU on the South Waterfront, and to summer camps at other locations
5 around the City. Due to defendant’s failures described herein, Mr. Rudwick describes some of his
6 experiences traveling by bicycle in Portland as “super dangerous,” primarily due to a lack of
7 bicycle facilities that would enable travel without riding in close proximity to many fast-moving
8 cars and trucks.

9 18.

10 Plaintiff Taizz Medalia lives in the Overlook neighborhood near the Adidas campus. She
11 has lived in Portland for 30 years. She is 98% car free and bikes all year round in all weather. She
12 rides 5-10 miles every day, using an e-bike with trailer when needed. She has metastatic cancer
13 and rides to all of her medical appointments at Good Samaritan Hospital in Northwest Portland by
14 bicycle. She plays music and rides to all of her performances at various venues in Portland by
15 bicycle. Though she uses a bicycle for many of her essential transportation needs, cycling is also
16 therapeutic as she copes living with terminal cancer. While her comfort and safety depend on a
17 safe and connected bicycle network city-wide, her most frequent routes currently take her through
18 the Hoyt Yards area of the Pearl District to get to medical appointments. Additionally, Ms. Medalia
19 volunteers for Loaves and Fishes on Killingsworth, delivering meals by bicycle to those in need.
20 This volunteer work involves travel on numerous streets, including those that lack proper bicycle
21 facilities due to Defendant’s failures described herein. Consistent with crash data, and despite
22 Defendant’s duties under ORS 366.514, Ms. Medalia’s experience is that the danger she
23 encounters bicycling on Portland streets is increasing.

24 19.

25 Plaintiff Robert Burchett lives in the Cully neighborhood of Portland. His work is as a
26 bicycle-based gardener. As part of his work, he rides a cargo e-bicycle loaded with tools and

1 materials to many customer locations. He works frequently in Northwest Portland, and rides
2 through the Hoyt Yards area of the Pearl district to access customers, in addition to numerous
3 destinations throughout the city. Defendant's systematic failure to provide bicycle facilities as
4 required by ORS 366.514 and as described herein, meaningfully affect Mr. Burchett's ability to
5 conduct his business, and to do so with the safety and comfort which compliant bicycle facilities
6 would provide. Due to the economic nature of much of Mr. Burchett's bicycle use, defendant's
7 failures described herein, have a negative economic effect on Mr. Burchett's business and work.

8 20.

9 Plaintiff Ted Whitney lives near East Burnside and 82nd Avenue. Mr. Whitney is a retiree,
10 who took up cycling as a hobby, because it is fun and healthful. Now, he rides almost every day,
11 for recreation. He rides on Burnside, Stark and Division often, and many other streets as well. He
12 would ride on 82nd Avenue because it is such a key street for accessing businesses and for through
13 travel, but must avoid it because the way Defendant currently operates the street is too dangerous
14 for him to be able to ride on it. Mr. Whitney rides through Northwest Portland to access Forest
15 Park, as well. In the foregoing ways, Mr. Whitney is directly affected by Defendant's systematic
16 failures to comply with ORS 366.514 described herein.

17 21.

18 Plaintiff Steven Acker lives near East Burnside and 75th Avenue in Portland. He and his
19 family live car-free, depending on bicycling, walking, and public transit for transportation. Despite
20 the unique usefulness of 82nd Avenue as a through route and to access goods and services in their
21 neighborhood, they do not ride on 82nd because it lacks bicycle facilities and is too dangerous.
22 Many of the "bike corridors" that Mr. Acker does ride "just stop" and do not provide connected
23 safe bicycle travel. For example, Mr. Acker rides the bicycle lane eastbound on SE Hawthorne,
24 however it "just stops" at 12th Ave. Defendant's failure to provide bicycle facilities in each location
25 where Defendant has constructed or reconstructed a street since the "Bicycle Bill" became the law
26 in 1971 means that Mr. Acker experiences discontinuities in the bikeway network, and is unable

1 to travel safely on those routes as he would do if Defendant were compelled by this lawsuit to
2 comply.

3 22.

4 Plaintiff Lynda Bishop resides with Plaintiff Steve Acker near East Burnside and 75th
5 Avenue in Portland. As detailed in the preceding paragraph, she and Mr. Acker live car-free,
6 depending on bicycling, walking, and public transit for transportation. Despite the unique
7 usefulness of 82nd Avenue as a through route and to access goods and services in their
8 neighborhood, she does not ride on 82nd because it lacks bicycle facilities and is too dangerous.
9 Many of the least-bad routes for bicycling that Ms. Bishop rides do not provide connected safe
10 bicycle travel. Ms. Bishop would use SE Hawthorne and many of the other locations set forth in
11 this Amended Complaint as violations of ORS 366.514, if those locations had bicycle facilities.
12 She will remain unable to do so unless and until Defendant is compelled by this lawsuit to comply.

13 23.

14 Plaintiff Shambra Jennings has lived car-free in Portland for 15 years. She currently lives
15 near 82nd Avenue, but is unable to ride on 82nd Avenue due to its lack of bicycle facilities and the
16 danger presented by the way Defendant currently operates the street and the way it proposes to
17 continue operating the street even after the current project to reconstruct the street is completed in
18 the coming years, in violation of ORS 366.514. Ms. Jennings has worked for significant periods
19 of time (disrupted by the pandemic) as a dispatcher for a fleet of full service bicycle delivery
20 caterers. The geographic scope of this delivery dispatch work has stretched from the South
21 Waterfront to NW Thurman, and from SE 30th on eastside and the bottom of the west hills on the
22 westside. Even with the pandemic affecting her work, she continues to ride 5-10 hours per week,
23 primarily for grocery shopping and errands. She uses non-bicycle modes of transportation more
24 now because most of her routes lack bicycle facilities that provide separation from drivers
25 operating vehicles at high speed. Ms. Jennings has had a number of close calls and situations with
26 motor vehicle drivers that have scared her into biking less. Ms. Jennings rides SE Division near

1 her house to complete errands, but does not go west of 50th because the (missing) infrastructure
2 for people to ride bicycles is so bad. Among the other locations where missing infrastructure for
3 bicycles affects Ms. Jennings, she would ride the stretch of SE Division from 50th to the
4 Willamette River, if Defendant were compelled to provide a bicycle facility there as ORS 366.514
5 requires.

6 24.

7 Plaintiff Daniel Fuller lives in the Old-Town / Chinatown neighborhood of Portland and
8 does not own a car. He relies heavily on the BikeTown bikeshare bicycles that are a service of the
9 Defendant City of Portland. His regular transportation needs include traveling through the Hoyt
10 Yards areas of the Pearl District, near where he lives. His transportation destinations include East
11 Portland, where he needs to access 82nd Avenue. He is unable to access 82nd Avenue safely because
12 of the current conditions of that street. He needs to cross 82nd Avenue to get to the facility on 80th
13 Avenue where he donates plasma, among other destinations.

14 25.

15 Plaintiff Mark Ontiveros lives in Portland and works at a bicycle shop in Portland.
16 Specifically, he lives in the Rose City Park neighborhood of NE Portland near Normandale park
17 and works at West End Bikes downtown. In addition, he rides a large number of miles in Portland
18 himself, particularly on arterial streets because he needs to cover long distances at relatively fast
19 speeds efficiently. Mr. Ontiveros has compelling interests in having adequate bicycle facilities
20 throughout Portland. If people in Portland do not have safe and attractive places to ride bicycles,
21 he will not have customers coming into the bicycle shop where he works. And, he and his family
22 members will not have safe and comfortable places to ride for their own transportation and health
23 needs, and competitive sporting interests. Mr. Ontiveros and the shop where he works have been
24 involved in the competitive cycling community in Portland for many years. 82nd Avenue and SE
25 Hawthorne are among the arterial streets that Mr. Ontiveros would use if they had bicycle facilities

1 as required by law. These are among the distinct interests he has in seeing the City of Portland
2 comply with its obligations to build bicycle facilities pursuant to ORS 366.514.

3 26.

4 Plaintiff Max Woodbury is 51 years old. He suffered a fracture of his sixth cervical
5 vertebra in a work accident in 1996 and has since been a C-6 complete quadriplegic with limited
6 hand and arm function and no use of his legs. He has been employed 20 hours a week as a Senior
7 GIS Specialist at Portland Metro Regional Government since his post-injury rehabilitation.

8 27.

9 Mr. Woodbury commutes to work at 600 NE Grand Avenue from his home at SE 37th and
10 Salmon Streets regularly as well as to a personal trainer once or twice per week near SW
11 Terwilliger Blvd near the Interstate 5 freeway. He competes in marathon and other races using an
12 adaptive handcycle he powers with his arms, shoulders and back and uses a power-assisted
13 handcycle for commuting and other trips around the City.

14 28.

15 Mr. Woodbury sits on the City's Bicycle Advisory Committee. He regularly uses SE
16 Hawthorne Boulevard and SE Division Street from SE 10th to SE Cesar Chavez Blvd for
17 restaurants and grocery and other shopping.

18 29.

19 Among the many Portland streets upon which Mr. Woodbury depends for his mobility, he
20 regularly uses SE Hawthorne Boulevard and SE Division Street from SE 10th to SE Cesar Chavez
21 Blvd for restaurants and grocery and other shopping. He is adversely affected by the lack of
22 bicycle facilities at those locations.

23 30.

24 Plaintiff Karen Frost was the first executive director of the Bicycle Transportation Alliance
25 (BTA), which filed the original "Bicycle Bill" lawsuit against the City of Portland. She is since
26 retired and continues to bicycle daily, primarily running errands, but also cycling for recreation

1 and health. Ms. Frost has not owned a car in 23 years and uses two bikes with trailers for all errands
2 including grocery shopping, trips to the hardware store, and transporting large product purchases.
3 She is a resident of the Woodstock neighborhood. She has regular need to use Hawthorne
4 Boulevard and the Hoyt Yards area, among other locations subject to the present lawsuit. SE
5 Hawthorne and SE Division are among the arterial streets that Ms. Frost would regularly use if the
6 City of Portland complied with its obligations to build bicycle facilities pursuant to ORS 366.514.

7 31.

8 Each of the aforementioned individual plaintiffs is substantially and adversely affected by
9 the City of Portland’s compliance or non-compliance with the Pedestrian and Bicycle Bill in their
10 safety, their ability to use Portland streets, and their ability to use bicycles, walking and rolling on
11 public rights-of-way as a safe and viable option in Portland. Defendant’s non-compliance as
12 alleged herein directly affects the individual plaintiffs’ everyday lives, transportation options, and
13 personal comfort, safety, and economic interests. The effects on them are real and practical, not
14 abstract.

15 32.

16 The City of Portland is an Oregon Municipal Corporation organized and existing under the
17 laws of the State of Oregon, and Rene Gonzalez, Mingus Mapps, Carmen Rubio, Dan Ryan, and
18 Ted Wheeler (Mayor) are the duly elected and serving commissioners for the City of Portland and
19 constitute its governing body.

20 33.

21 The City of Portland, by and through its Bureau of Transportation, receives state highway
22 funds.

23 **FIRST CLAIM FOR RELIEF**

24 34.

25 ORS 366.514. provides, among other things, “Out of the funds received by the
26 department or by any county or city from the State Highway Fund, reasonable amounts shall be

1 expended as necessary to provide foot paths and bicycle trails, including curb cuts or ramps, as
2 part of the project. Foot paths and bicycle trails including curb cuts or ramps as part of the
3 project shall be provided wherever a highway, road, or street is being constructed, reconstructed,
4 or relocated ... (5) As used in this Section, “bicycle trail” means a publicly owned and
5 maintained lane or way designated and signed for the use as a bicycle route.”

6 35.

7 The City of Portland has constructed, reconstructed, and relocated numerous streets
8 within the City of Portland without providing the bicycle and/or pedestrian facilities required by
9 ORS 366.514. Further, the City of Portland is in the process of constructing, reconstructing,
10 and/or relocating certain streets within the City of Portland without providing bicycle and/or
11 pedestrian facilities required by ORS 366.514.

12 36.

13 The City of Portland has no policies or procedures to ensure compliance with ORS
14 366.514. The City of Portland has failed or is failing to comply with ORS 366.514 at numerous
15 times and at numerous locations throughout the City of Portland, including but not limited to the
16 following initially identified locations:

- 17 a) The “Hoyt Yards” area of the Pearl District in Northwest Portland, which
18 comprises at least 24 complete city blocks, and was constructed entirely without
19 bicycle facilities;
- 20 b) NW 13th Avenue;
- 21 c) NW Kearney and NW Johnson from 9th to Station Way;
- 22 d) NW 23rd Ave south of Lovejoy St and the NW Vaughn St intersection;
- 23 e) NW Savier St east of NW Aspen Ave;
- 24 f) NE Killingsworth from Commercial to MLK;
- 25 g) NE MLK at Columbia (intersection);
- 26 h) NE Lombard from St Louis to Richmond;

- 1 i) NE Everett Ct from NE 97th Ave to NE 99th Ave
- 2 j) NE 33rd Avenue over NE Lombard St which was constructed and/or
- 3 reconstructed without bicycle facilities, and in part without pedestrian facilities;
- 4 k) NE Thompson E of 149th;
- 5 l) NE San Rafael from 148th to 162nd;
- 6 m) NE 46th Ave north of Columbia;
- 7 n) NE Couch and Davis East of 97th Ave and 97th Ave;
- 8 o) NE 136th between Whitaker Way and Prescott Ct;
- 9 p) NE and SE 82nd Ave;
- 10 q) Overpasses over I-205 at SE Market; NE Glisan; NE Prescott, NE Sandy;
- 11 r) SE Hawthorne Blvd;
- 12 s) SE Division St from SE 10th to SE Cesar Chavez;
- 13 t) SE 118th Ave from Pardee to Raymond; and
- 14 u) SW 11th from Gibbs to Gaines.

15 37.

16 On information and belief, the list of initially identified locations in the preceding
17 paragraph is incomplete, and numerous additional non-compliant locations will be identified
18 when the City of Portland can be compelled to produce documents in response to long-
19 outstanding public records Requests nos. C129069-031620 and C121169-011720 which seek
20 compliance documents and were issued by BikeLoud *et al* to the City of Portland in January and
21 March of 2020, respectively, and/or through discovery. Plaintiff hereby provides notice of intent
22 to amend this Complaint to include additional streets identified through those processes.

23 38.

24 The rights, status and other legal relations of Plaintiff BikeLoud, its members and the
25 individual plaintiffs named in paragraphs 12 – 30 are adversely affected by defendant's failure to
26 comply with ORS 366.514 in a way that the great majority of Portland residents who do not

1 regularly ride bicycles for transportation are not. Plaintiffs suffer real and probable injury by
2 virtue of their inability safely and efficiently to use the initially identified locations described in
3 Paragraph 36 for walking and cycling, and all non-compliant locations city-wide. The relief
4 requested in this case will have a practical effect on their rights to the safe and efficient use of
5 the public right-of-way and transportation facilities at the initially identified locations and city-
6 wide.

7 39.

8 Plaintiff is entitled to a declaration that defendant has violated and is violating ORS
9 366.514 at the initially identified locations described in Paragraph 36 above and similar locations
10 that will be identified.

11 **SECOND CLAIM FOR RELIEF**

12 Plaintiff realleges Paragraphs 1 - 39.

13 40.

14 Plaintiffs have no adequate or speedy remedy at law, nor any other remedy than the
15 declaratory and injunctive relief prayed for here, and unless the defendant City of Portland is
16 enjoined from its violation of ORS 366.514 and required to provide State-Law-mandated bicycle
17 and pedestrian facilities, Plaintiffs will be irreparably harmed.

18 **PRAYER**

19 WHEREFORE, Plaintiffs Demand judgment for the following relief:

- 20 1. For a declaration that defendant has violated and is violating ORS 366.514 at the
21 initially-identified locations described in Paragraph 36 above and at such further
22 locations as are identified as described herein.
- 23 2. For an injunction ordering and requiring the City of Portland to comply with ORS
24 366.514 by providing compliant bicycle and pedestrian facilities on projects subject
25 to ORS 366.514 and for which such facilities were not provided;
- 26

- 1 3. For a further injunction ordering and requiring the City of Portland to implement its
2 Bicycle Plan for 2030 and like Council-Approved Plans as applicable as a *cy pres*
3 remedy in such locations, if any, where the City of Portland proves that compliance
4 for past failures to provide bicycle and pedestrian facilities in violation of ORS
5 366.514 is no longer practicable;
- 6 4. For a further injunction enjoining the City of Portland from any further construction
7 of in-process and planned projects subject to ORS 366.514 unless and until the City
8 demonstrates that the projects comply with ORS 366.514;
- 9 5. For plaintiff's costs and attorney's fees pursuant to the Court's equitable powers,
10 including those set forth in *DeYoung v. Brown*, 300 Or App 530 (2019); and
- 11 6. For such other and further relief as to the Court shall seem equitable and just.

12 **DATED: July 20, 2022**

13 **FORUM LAW GROUP LLC**

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