

# Love Me (a) Tender

By Luis Fragoso

A non-profit organization held a large event in one of our members' parks. Per the Event Agreement executed between the City and the event organizer, the non-profit purchased a \$1 million each occurrence/\$2 million general aggregate liability insurance policy from a private insurer and added the City to the policy as an Additional Insured. During the event, a large tree dropped a branch, critically injuring one of the attendees. As soon as WCIA learned of the incident, we retained counsel to help the City identify and preserve evidence in anticipation of a claim being filed. Shortly thereafter, we received a Claim for Damages form from the injured party's attorney demanding \$2 million to resolve her claim.

A review of the City's inspection and maintenance records revealed that two years earlier, the City had entered into a Tree Trimming and Removal Services contract which was still in force at the time of this incident. We also learned that the tree service company the City hired to maintain the park inspected all the trees only a couple of months before the event and did not identify the tree that dropped the branch as an imminent hazard. The contract executed between the City and the tree service company required liability coverage in the amount of (you guessed it!) no less than \$1 million each occurrence/\$2 million general aggregate.

Both the Tree Trimming and Removal Services contract and the Event Agreement required the contractor and event organizer to provide primary and non-contributory liability insurance coverage and name the City as an Additional Insured. In addition, the Contract and Event Agreement's Indemnification and Hold Harmless language placed the onus on the contractor and event organizer to defend, indemnify and hold harmless the City from all claims and/or suits arising out of any negligent act and/or omission of the contractor and event organizer.

In this case, our member did a great job requiring that the City be named as an Additional Insured and incorporating clear and concise Indemnification and Hold Harmless language in its Contract and Event Agreement which allowed us to successfully tender the claim to the Contractor, Event Organizer and their respective insurer.

If you are planning on having or allowing special events, and you haven't already, please contact your WCIA Risk Management Representative to learn more about these and other potential risks you may encounter and how to minimize and/or transfer those risks.