Operation Agreement

(Oaxaca Water and Sanitation Sector Modernization Operation)

between

INTERNATIONAL BANK FOR RECONSTRUCTION
AND DEVELOPMENT

and

STATE OF OAXACA

Dated June 13, 2014
OPERATION AGREEMENT

Agreement dated June 13, 2014, entered into between INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT ("Bank") and STATE OF OAXACA ("Operation Implementing Entity") ("Operation Agreement") in connection with the Loan Agreement ("Loan Agreement") of same date between BANOBRAO ("Borrower") and the Bank. The Bank and the Operation Implementing Entity hereby agree as follows:

ARTICLE I — GENERAL CONDITIONS; DEFINITIONS

1.01. The General Conditions (as defined in the Appendix to the Loan Agreement) constitute an integral part of this Agreement.

1.02. Unless the context requires otherwise, the capitalized terms used in this Agreement have the meanings ascribed to them in the Loan Agreement or the General Conditions.

ARTICLE II — OPERATION

2.01. The Operation Implementing Entity declares its commitment to the objective of the Operation. To this end, the Program Implementing Entity shall carry out the Operation, with the assistance of the Participating Agencies in accordance with the provisions of Article V of the General Conditions and the pertinent Participating Agency Agreement, and shall provide promptly as needed, the funds, facilities, services and other resources required for the Operation.

2.02. Without limitation upon the provisions of Section 2.01 of this Agreement, and except as the Bank and the Program Implementing Entity shall otherwise agree, the Operation Implementing Entity shall carry out the Operation in accordance with the provisions of the Schedule to this Agreement.

ARTICLE III — REPRESENTATIVE; ADDRESSES

3.01. The Operation Implementing Entity's Representative is its Finance Secretary.
3.02. The Bank’s Address is:

International Bank for Reconstruction and Development
1818 H Street, NW
Washington, DC 20433
United States of America

Cable: INTBAFRAD
Telex: 248423(MCI) or 1-202-477-6391
Facsimile: 64145(MCI)

3.03. The Operation Implementing Entity’s Address is:

Centro Administrativo y Judicial General Porfirio Díaz,
Edificio "D" Saúl Martínez,
Carretera Federal Oaxaca-Puerto Escondido Km. 18,
Reyes Mantecón, San Bartolo Coyotepec,
Oaxaca. C.P. 71257

AGREED at Mexico City, Mexico, as of the day and year first above written.

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

By (Signature)
Authorized Representative

STATE OF OAXACA

By (Signature)
Authorized Representative
SCHEDULE

Operation Execution

Part A: The Program

Section I. Implementation Arrangements

A. Program Fiduciary, Environmental and Social Systems

Without limitation on the provisions of Article V of the General Conditions, the Operation Implementing Entity shall carry out the Program in accordance with financial management, procurement and environmental and social management systems acceptable to the Bank ("Program Fiduciary, Environmental and Social Systems") which are designed to ensure that:

1. the Loan proceeds are used for their intended purposes, with due attention to the principles of economy, efficiency, effectiveness, transparency, and accountability; and

2. the actual and potential adverse environmental and social impacts of the Program are identified, avoided, minimized, or mitigated, as the case may be, all through an informed decision-making process.

B. Anti-Corruption

Without limitation upon the provisions of Part A of this Section, the Operation Implementing Entity shall carry out the Program in accordance with the provisions of the Anti-Corruption Guidelines for the Program.

C. Other Program Institutional and Implementation Arrangements

1. Program Institutions

Without limitation on the generality of Part A of this Section I, the Operation Implementing Entity shall:

(a) carry out the Program through SEFIN, and shall operate, at all times, during the implementation of the Program, with powers, functions, capacity and resources satisfactory to the Bank to discharge such functions under the Program; and

(b) cause each Participating Agency to maintain adequate staff in sufficient numbers to carry out the activities under the Program that fall within their administrative jurisdiction, and to operate, at all times, during the
implementation of the Program, with powers, functions, capacity and resources satisfactory to the Bank to discharge such functions under the Program.

2. Implementation Agreements

(a) To facilitate the carrying out of the Program, the Operation Implementing Entity shall enter into an agreement (the Participating Agency Agreement) with each Participating Agency, all under terms and conditions approved by the Bank, in respect of the Program which shall include, inter alia, the obligation of each Participating Agency to: (i) carry out the activities which fall within its administrative jurisdiction under the Program in accordance with the pertinent provisions set forth in Article V of the General Conditions for the Program; and (ii) comply with the pertinent provisions of this Schedule as applicable to said Participating Agency, including compliance with the provisions of the Anti-Corruption Guidelines for the Program.

(b) The Operation Implementing Entity shall exercise its rights and carry out its obligations under each Participating Agency Agreement in such manner as to protect the interests of the Operation Implementing Entity and the Bank and to accomplish the purposes of the Program Loan. Except as the Bank shall otherwise agree, the Operation Implementing Entity shall not assign, amend, abrogate, terminate, waive or fail to enforce any Participating Agency Agreement or any of its provisions.

3. Operational Manual

(a) Without limitation on the generality of Part A of this Section I, and unless the Bank shall otherwise agree, the Operation Implementing Entity shall carry out the Program in accordance with the provisions of the Operational Manual.

(b) Except as the Bank shall otherwise agree, the Operation Implementing Entity shall not amend, waive or fail to enforce any provision of the Operational Manual without the Bank’s prior written consent. In case of any conflict between the terms of the Operational Manual and those of this Agreement, the terms of this Agreement shall prevail.

4. Selected Entity Results Agreements

(a) To facilitate the implementation of Part 1.3 of the Program, the Operation Implementing Entity shall cause CEA to enter into an agreement (the Selected Entity Results Agreement) with each Selected Entity, all under terms and conditions acceptable to the Bank, which shall include, inter
alia, the obligation of each Selected Entity to: (i) achieve implementation targets; (ii) comply with the provisions of the Anti-Corruption Guidelines for the Program; and (iii) maintain and operate the water networks under their administrative jurisdiction.

(b) The Operation Implementing Entity shall cause CEA to exercise its rights and carry out its obligations under each Selected Entity Results Agreement in such manner as to protect the interests of the Operation Implementing Entity and the Bank and to accomplish the purposes of the Program Loan. Except as the Bank shall otherwise agree, the Operation Implementing Entity shall cause CEA not to assign, amend, abrogate, terminate, waive or fail to enforce any Selected Entity Results Agreement or any of its provisions.

5. Additional Program Implementation Arrangements

Without limitation on the generality of Part A of this Section I, and unless the Bank shall otherwise agree, the Operation Implementing Entity shall: (a) carry out the actions within the Program Action Plan which fall under its administrative jurisdiction; and (b) cause the Participating Agencies to carry out the actions within the Program Action Plan which fall under their administrative jurisdiction, all in accordance with the terms of the Program Action Plan and in a manner satisfactory to the Bank.

Section II. Excluded Activities

The Operation Implementing Entity shall ensure that the Program excludes any activities which:

1. in the opinion of the Bank, are likely to have significant adverse impacts that are sensitive, diverse, or unprecedented on the environment and/or affected people; or

2. involve the procurement of: (a) works, estimated to cost $50,000,000 equivalent or more per contract; (b) goods, estimated to cost $30,000,000 equivalent or more per contract; (c) non-consulting services, estimated to cost $20,000,000 equivalent or more per contract; or (d) consultants’ services, estimated to cost $15,000,000 equivalent or more per contract.

Section III. Program Monitoring, Reporting and Evaluation; Audits

A. Program Reports

The Operation Implementing Entity shall monitor and evaluate the progress of the Program and prepare Program Reports in accordance with the provisions of
Section 5.08 of the General Conditions for the Program. Each Program Report shall cover the period of one calendar semester, and shall be furnished to the Bank not later than forty five days after the end of the period covered by such report.

B. Program Financial Audits

Without limitation on the generality of Section IA of this Schedule 2 and Section 5.09 of the General Conditions for the Program, the Operation Implementing Entity shall have the Financial Statements audited in accordance with the provisions of Section 5.09 (b) of the General Conditions. The first audit of the Financial Statements shall cover the period from the Effective Date until the end of the following calendar year and each subsequent audit shall cover one fiscal year of the Borrower. The audited Financial Statements for each such period shall be furnished to the Bank not later than six months after the end of such period.

C. Technical Audits

The Operation Implementing Entity shall: (a) not later than December 31, 2014, hire independent verification agents under terms of reference satisfactory to the Bank, to carry out the verification of compliance of the DLIs; and (b) cause said independent verification agents to, not later than thirty days after each verification of compliance of the DLIs has been completed, prepare and furnish to the Borrower, the Operation Implementing Entity and the Bank, a report on the results of each said verification of compliance process of such scope and in such detail as the Bank shall reasonably request.
Part B: The Project

Section I. Implementation Arrangements

A. Institutional Arrangements

The Operation Implementing Entity shall carry out the Project through SEFIN, and operate, at all times, during the implementation of the Project, with powers, functions, capacity and resources satisfactory to the Bank to discharge such functions under the Project.

B. Implementation Agreements

1. To facilitate the carrying out of the Project, the Operation Implementing Entity shall make part of the proceeds of the Project Loan available to each of the Participating Agencies under the pertinent Participating Agency Agreement, under terms and conditions approved by the Bank in respect of the Project, which shall include, inter alia, the obligation of each Participating Agency to: (a) carry out the activities which fall within its administrative jurisdiction under the Project in accordance with the pertinent provisions set forth in Article V of the General Conditions of the Project; and (b) comply with the pertinent provisions of this Schedule as applicable to said Participating Agency, including compliance with the provisions of the Anti-Corruption Guidelines for the Project.

2. The Operation Implementing Entity shall exercise its rights and carry out its obligations under each Participating Agency Agreement in such manner as to protect the interests of the Operation Implementing Entity and the Bank and to accomplish the purposes of the Project Loan. Except as the Bank shall otherwise agree, the Operation Implementing Entity shall not assign, amend, abrogate, terminate, waive or fail to enforce any Participating Agency Agreement or any of its provisions.

C. Operational Manual

1. Without limitation upon the provisions of Section 2.01 of this Agreement, and except as the Bank may otherwise agree, the Operation Implementing Entity shall carry out the Project in accordance with the provisions of the Operational Manual.

2. Except as the Bank shall otherwise agree, the Operation Implementing Entity shall not amend, waive or fail to enforce any provision of the Operational Manual without the Bank’s prior written consent. In case of
any conflict between the terms of the Operational Manual and those of this Agreement, the terms of this Agreement shall prevail.

E. Anti-Corruption

The Operation Implementing Entity shall carry out the Project in accordance with the provisions of the Anti-Corruption Guidelines for the Project.

F. Safeguards

The Operation Implementing Entity shall ensure that the terms of reference for non-consulting services and for consultants' services under such activities of the Project be satisfactory to the Bank following its review thereby, and to that end said terms of reference shall incorporate the requirements of the Bank Safeguards Policies then in force and as applicable, all in a manner satisfactory to the Bank.

Section II. Project Monitoring Reporting and Evaluation

A. Project Reports

The Operation Implementing Entity shall monitor and evaluate the progress of the Project and prepare Project Reports in accordance with the provisions of Section 5.08 of the General Conditions for the Project and on the basis of indicators acceptable to the Bank. Each Project Report shall cover the period of one calendar semester, and shall be furnished to the Bank not later than one month after the end of the period covered by such report.

B. Financial Management, Financial Reports and Audits

1. The Operation Implementing Entity shall maintain or cause to be maintained a financial management system in accordance with the provisions of Section 5.09 of the General Conditions for the Project.

2. Without limitation on the provisions of Part A of this Section, the Operation Implementing Entity shall prepare and furnish to the Bank not later than forty five days after the end of each calendar semester, interim unaudited financial reports for the Project covering the semester, in form and substance satisfactory to the Bank.

3. The Operation Implementing Entity to have its Financial Statements audited in accordance with the provisions of Section 5.09 (b) of the General Conditions for the Project. The first audit of the Financial Statements shall cover the period from the Effective Date until the end of the following calendar year and each subsequent audit shall cover one fiscal year of the Borrower. The audited Financial Statements for each
such period shall be furnished to the Bank not later than six months after the end of such period.

Section III.   Procurement

All goods and services required for the Project and to be financed out of the proceeds of the Project Loan shall be procured in accordance with the provisions of Section III of Schedule 3 to the Loan Agreement.