

# **Section 41 Requisition for new mains Terms and Conditions**

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Version 1

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# Introduction

A Water Main Requisition Agreement is made between Southern Water Services Limited (“SWS”) and a Requisitioner for the provision of mains in response to a requisition under Section 41 of the Water Industry Act when SWS’s Offer of Terms (“Offer”) for the provision of such is accepted by the Requisitioner.

The Agreement and Offer is subject to: SWS’s published charges which are detailed on the SWS website and the following general and specific terms and conditions relative to the provision of requisitioned work.

## Part One – General Terms

1. The Requisitioner (developer) may apply for new mains once the criteria detailed in 1.1 to 1.3 inclusive have been satisfied which details SWS’s Offer to provide the new mains necessary to supply a new development requisitioned under Section 41 of the Water Industry Act 1991.

1.1 Receipt by SWS of the required Requisitioner payment,

1.2 Receipt by SWS of a signed Requisition Agreement

1.3 Receipt of the pre-construction Health & Safety Plan.

Additional charges apply as further detailed on the SWS website and these will be notified by SWS when they fall due.

The Offer letter will identify the mains that are specific to the development and additionally any associated network reinforcement work that SWS has assessed as necessary to support the provision of site specific mains. This assessment will consider all available information relative to the area of development.

2. **Payment:**

Payments for new mains (subsequent new services and/or a diversion of an existing asset) are required in advance. Developers are advised to effect payment promptly following receipt of SWS’s Offer.

3. **Network Reinforcement:**

The cost of network reinforcement work is met by the published Infrastructure charge that SWS applies to all new developments within its region of supply.

4. **Design work start date:**

a) Design work will not be commenced until the relevant sums, as published by SWS on its Website, have been paid and a satisfactorily completed application form has been received by SWS.

The start date for commencing a design, subject to any special engineering difficulties associated with the work, shall be as follows:

- Development of up to 500 properties – work commencement within 28 days.
- Development in excess of 500 properties – work commencement within 42 days.

5. **Excavation by SWS and installation of pipe in unmade ground:**

**An Offer based on excavation by SWS shall only be made when the Requisitioner’s requisition / application specifically requests that the Offer be made on such a basis. Therefore, the default Offer will be on a “no excavation” basis in accordance with Clause 6 under.**

This Offer is issued on the basis that excavation of the ground within the boundaries of the proposed development for site specific mains is undertaken by SWS with bedding and surround provided by SWS and backfill using selected excavated material, and subject to the ground conditions being of an undisturbed nature and unmade consistency and not of an “artificial construction” (e.g. including but not limited to cultivated land, footpaths, roads). Additionally the ground is also to be free of any contaminants or pollutants.

Where excavation is required to be conducted in artificial ground the above responsibilities shall still apply and the cost shall be calculated on the SWS published charge for side road.

**6. Excavation by Developer with no excavation by SWS:**

**An Offer based on “no excavation” by SWS shall be the default basis for SWS’s Offer in response to a requisition for new water mains.**

This Offer is issued on the basis that excavation of the ground within the boundaries of the proposed development for site specific mains and/or services will be excavated by the developer such that the Offer is based on “no excavation”.

Under this option the developer shall be responsible for all excavation, provision of suitable bedding and surround material, backfill material, backfill of the trench and reinstatement to suit. SWS shall be responsible for the supply and installation of the mains in accordance with required SWS specification and standards.

**7. Self-lay option:**

For the purposes of any comparative assessment for mains to be installed by a Self-lay Provider (“SLP”) as an alternative to a Section 41 Requisition; the Offer will assume the default position of “no excavation” and Contestable work relative to such shall be detailed in the Offer.

Non-contestable work will be detailed within the Offer but such will be based on excavation by SWS only.

**8. Definition of “no excavation” that shall form the basis of the Offer is as follows;**

- a) The developer shall excavate for installation of a main to a depth and width sufficient to satisfy SWS’s specification and standards (which matches the specification and standards set out in the SWS Self-lay Policy, a copy of which is published on SWS’s website).
- b) SWS (and/or an SLP when applicable) shall not be required to do any excavation other than to prepare the faces of excavated surfaces to receive a proposed installation.
- c) If SWS (or an SLP when applicable) is required to undertake any excavation other than that stipulated above SWS reserve the right to charge any additional costs incurred by its Contractor if SWS is installing the mains.
- d) SWS shall install mains providing that the excavation is sufficient to achieve the required pipe installation cover depth of 750mm from the final permanent surface unless otherwise accepted in writing by SWS.

**9. Change from SWS excavation in unmade ground to excavation by Developer:**

If the developer elects for whatever reason to assume responsibility for excavation and backfill once work has commenced then no contemporaneous adjustment to the terms of the Offer shall be considered by SWS. However, subject to SWS agreeing the extent of the change relative to the lengths of mains installed the SWS final measurement shall use the relevant rates that are set out in SWS’s published charges and the Offer will be amended at that time.

Note: Relative to any subsequent requisition application for service connections the developer shall excavate sufficiently around the main to SWS’s satisfaction in order that service connection equipment can be utilised without the requirement for SWS to undertake any excavation.

**10. Site readiness:**

- a) It is the developer's responsibility to notify SWS if the site layout / design are amended and/or any circumstances or conditions on site change subsequent to an accepted Offer.
- b) SWS reserves the right to revoke, at any time any Offer and to re-estimate and issue a revised Offer (and amend the Agreement) should it become aware subsequently that the proposed installation for any mains and/or services traverses through ground that is considered by SWS to be of an artificial construction and/or is found to be contaminated and/or it materially differs from the basis upon which the Offer was made.
- c) The Offer is made based on the final accepted version of the developer’s site layout drawing and the number of units to be developed and occupied.

- d) In the event that the developer fails to install ducts in accordance with SWS's final approved mains and services design (drawing referenced as detailed in the Offer letter) or the developer's subsequent actual site installation differs from the approved design SWS shall re-measure and recalculate the Offer in accordance with its published charges.

**11. Thrust and anchor blocks:**

If a thrust or anchor block is required to be installed the Requisitioner is not to interfere with completed work or to excavate or backfill around or above any thrust or anchor block without ensuring that the concrete and structure of such is sufficiently and fully set to SWS's satisfaction.

Details of the required positioning of any thrust and/or anchor blocks are to be agreed between the Requisitioner and SWS to ensure that minimal disturbance to the existing ground can be managed.

**12. Contaminated ground:**

In the event that a developer has informed SWS of contaminated or polluted ground conditions within its application and has provided SWS with satisfactory information such that SWS can design its mains and services to suit SWS shall base its Offer on installing mains and/or services in such ground using appropriate materials and the associated additional cost of such will be incorporated into SWS's Offer and the eventual final measure.

**13. Backfill, bed and surround material, and supply:**

These materials shall be provided in accordance with SWS's current specification and standards.

- a) **Bedding and surround:** material shall be provided by SWS when the Offer is made subject to SWS being responsible for excavation.

When the developer (or an SLP when applicable) is responsible for excavation (such that the SWS Offer is made on the basis of "no excavation") these materials shall be provided by the developer, and be subject to SWS approval.

- b) **Backfilling:** material shall be provided by SWS when the Offer is made subject to SWS being responsible for excavation. The Offer is made on the assumption that the excavation is in unmade ground which is suitable to be used as a backfill material. However, in the event that selected excavated materials are deemed by SWS as unsuitable for backfilling the developer shall be required to remove and dispose of such materials and to provide at the point of backfill an alternative suitable and like material for backfilling.

**Selected Excavated Material:** When the developer or an SLP is responsible for excavation (such that the SWS Offer is made on the basis of "no excavation") this material shall also comprise a suitable selected material, provided by the developer, subject to SWS approval. If the selected excavated material is unsuitable for backfilling the developer shall be required to remove and dispose of such materials and to provide at the point of backfill an alternative suitable and like material for backfilling to be approved by SWS.

- c) All surplus excavated materials are the responsibility of the developer to dispose of.

**14. Trench supports:**

The depth of the proposed mains installation does not generally require trench supports except when specific ground conditions may dictate otherwise. Therefore, the Offer excludes any allowance for trench supports. However, if specific ground or installation requirements require trench supports then such are allowed for within the Offer and in SWS's published charges.

**15. Programme and start date for work:**

- a) Work will not be programmed until any Offer has been accepted and the relevant sums paid and/or deposited with SWS and a satisfactorily completed application been received by SWS
- b) Any work carried out by the developer to facilitate programming or execution of the works is not reclaimable from SWS against the Offer made unless it was agreed with SWS prior to and included within the Offer.
- c) Subject to Clauses d) to g) under, the construction and commissioning of a new water main will be completed either (i) within a period of 90 days commencing on the relevant day, or (ii) no later than

the date agreed with the developer. SWS shall confirm this date in writing with the developer by letter or email. The construction and commissioning of the new water main is completed when the new water main is under pressure from SWS's existing water mains network.

The "relevant day" for the purposes of the above Clause shall be when an undertaking under Section 42 of the Water Industry Act 1991 has been signed by the developer and SWS has been satisfied that the requirements of Clauses 1 and 2 of this document have been met.

All phases on a development site shall require an agreed start date between the developer and SWS as the Water UK service levels applicable are applied separately in respect of each individual phase.

- d) Following a request from the developer to SWS for a programme start date for work, SWS shall contact the developer to discuss and agree a date. SWS's start date shall not be at the behest of the developer's programme. Indicative programme dates may be affected by whether SWS has completed all necessary design and risk analysis work associated with the Requisitioner's activities. The consequence is that SWS shall have to reaffirm all final programme start and completion dates. Constraints on working (including special engineering difficulties) that may affect SWS's work, programme start, or duration of work shall require to be considered by SWS and as such SWS shall have no liability financial or otherwise for the effects of same which shall rest solely with the Requisitioner.
- e) Furthermore SWS shall not be bound to accommodate any subsequent developer changes to its proposed works or programme albeit that SWS will attempt to accommodate such. SWS will expect the developer to maintain regular contact with any details that may affect SWS's proposed work or any proposed start or completion date.
- f) In the event that SWS is delayed from commencing the works in accordance with the agreed programme commencement date, for whatever reason, SWS reserves the right to withdraw its resources and re-programme an alternative date. SWS reserves the right to withdraw and re-programme where work, once commenced, has been delayed, disrupted or halted by the developer being in breach of any of these Conditions. SWS shall not commence any re-programming of the works until any such delay or breach has been remedied to the satisfaction of SWS.
- g) In the instances of a site for any reason not being available on the agreed commencement date or the withdrawal of SWS's resources being caused by the developer's subsequent request or by his default the costs for all of same will be recoverable by making a charge for SWS's costs so occasioned, in respect of each instance of aborted work (by reference to the SWS published charges). Any revised start date will depend upon the programming or phasing of works and any other affecting constraints at that time including the payment of all outstanding charges in this respect

Any such additional charges must be received by SWS prior to commencement of work.

#### **16. Welfare:**

No allowance has been made in the Offer for any costs associated with the provision of welfare facilities (including, but not limited to toilet or mess room facilities) for SWS employees and/or its Contractors. Such welfare facilities will be provided on site free of charge by the developer. If SWS is required to provide these facilities the developer shall incur an extra charge from SWS for their provision.

#### **17. Installation by SWS - assumptions relevant to the Offer:**

The Offer is based on the following specific assumptions and conditions relevant to installation of new mains on development sites:

- a) The use of a suitable hydraulically operated mechanical excavator for all excavation and backfilling.
- b) The excavator being able to operate on level ground. Such that, if ground conditions do not permit operation in a safe working manner SWS reserves the right to reconsider the Offer.
- c) The excavator being used in conjunction with a suitable mechanical compactor.
- d) The type of equipment to be used will be entirely at SWS's and/or its approved Contractor's discretion.
- e) Water used for the purposes of testing any new installation of mains will be disposed of either into a suitable drain on site, or else by discharging over a suitable area of ground within the boundaries of the site. The developer shall confirm the above locations as to disposal or discharging adjacent to



the new mains, and particular to a suitable washout of fire hydrant fitting. Water to be discharged over ground will be de-chlorinated after testing has been satisfactorily completed. The developer is responsible for all any licences and/or authorisations necessary for the disposal of water on site.

- f) SWS reserves the right to routinely flush any new mains installation and connected services so as to turn-over the water within a pipe in the event that the number of new services connected to a new main fails to produce a sufficient demand of water which is to a satisfactory and safe level. An SWS representative shall liaise with the developer on site to programme any such Work. All potable and treated water discharged as part of any routine flushing of mains will be discharged from a washout or fire hydrant fitting into a suitable drain on site.
- g) Any costs incurred by SWS after the main has been commissioned where subsequent call-off new service connections are not requested by the developer in a sufficient time such that the water in the new main is not drawn off and becomes unsafe so that a flushing programme of Work is required shall be recoverable from the developer under SWS's Third Party Damage process.

#### **18. Offer Validity Period:**

- a) SWS's Offer for the provision of mains is based on providing the mains network detailed on the drawing referenced within its Offer. The associated cost estimate is based on an assessment of current costs derived from SWS's published charges and as such will remain valid for a period of three months from the date of the 'Offer' letter. Works will not be programmed until SWS's relevant Offer has been accepted
- b) When an Offer has been accepted but a work date has not been accepted by SWS as being within the same financial year of the Offer and subsequent acceptance (1st April to 31st March) SWS reserves the right to adjust the final sum used in the calculation of the Offer by the effect of SWS's latest published charges current from the relevant 1st April.
- c) When an Offer has been accepted but work has not commenced within 4 months of such acceptance SWS reserves the right to adjust the final sum used in the calculation of the Offer if during that 4 month period any change is made to the developers proposals or if SWS's current published charges to deliver its proposed work have changed in the intervening period.
- d) The Offer is dependent on all site specific mains work being programmed for completion in a single phase or in multiple phases subject to b) above relative in particular to the completion of work and a final measure of such.
- e) When the installation of mains is by SWS the final charges will include for commissioning any installation phase and the provision of water for testing purposes.
- f) In respect of work that is phased, as detailed within the Offer, the completion date of any such phase for mains installed and commissioned by SWS shall be taken by SWS as a fixed date such that any subsequent phases necessary to complete all works included within the Offer must be completed within 12 months of said date unless otherwise accepted in writing by SWS; i.e. the period between the last call-off phase and the subsequent return to site is not to exceed 12 months
- g) If all work is not completed within this period of 12 months SWS reserves the right to close down the work outstanding, measure all work completed, and adjust and finalise its Offer to suit and reconcile any payments or refunds due. The developer shall re-apply with a new requisition for completion of mains outstanding to be installed on the site unless otherwise accepted in writing by SWS.
- h) The Offer is based on the water mains being laid before the installation of all other Statutory Undertakers apparatus.

#### **19. Noticing and lead-in times:**

- a) Any work in the highway will require compliance with the Notice requirements of the New Roads & Street works Act 1991 and the Traffic Management Act 2008 and any subsequent legislation to follow thereon. Any associated programme commencement date will depend upon satisfaction of the previous sentence.
- b) So that materials may be ordered, the necessary Statutory Undertaker enquiries may be made, and the environmental obligations and the Statutory Notices may be issued, the commencement date of work shall be subject to the relative time constraints.
- c) Should it be necessary to serve notice for entry on to private land to provide a supply to any development SWS works will not commence until all required notifications required by the Water

Industry Act 1991 (section 159) have been completed and associated easements/ agreements etc. have likewise been completed.

**20. Access to installed mains:**

It is the developer's responsibility to ensure that subsequent Utility installations do not obstruct access to SWS's mains and/or services. Should SWS become aware of any such obstruction it reserves the right to make any alterations deemed necessary to any installed apparatus and to charge the developer for any such additional Work.

**21. Design change:**

No changes to the final approved mains and services design layout may be undertaken without the express approval of SWS as such will impact on the design and installation works and associated delivery programme.

**22. Damage to drains or sewers:**

When SWS is responsible for excavation it will only accept responsibility for any drains or sewers damaged during main(s) installations when such drains or sewers have been clearly marked on site by the developer beforehand, SWS has been notified in writing, and the developer has highlighted these to SWS's approved Contractor prior to works commencing. In all other cases responsibility for damaged drains or sewers, both financial and otherwise, shall rest with the developer.

**23. Supply to existing customers:**

- a) SWS is required to maintain a supply to its customers with minimum interference and is constrained on how long such supplies are able to be isolated when undertaking any works that affect its mains and services supply and distribution network. In order to eliminate or reduce interruptions to its customers supplies SWS will endeavour to utilise special engineering techniques etc., and to limit the times at which works can take place and restrict the length of time that any supplies can be shut-off in respect of any connections to its existing apparatus.
- b) SWS's design (or assessment of any design by an SLP) for any proposed new main will consider any applicable constraints based on information provided by any developer and on available records and other matters reasonably foreseeable.
- c) SWS, as a Statutory Undertaker, is required to minimise any shut-down of its water distribution network and consequently its work to repair and/or divert and existing asset associated with the installation of site specific mains and/or network reinforcement work will be undertaken appropriate to the conditions and constraints encountered.

**24. Constraints on design and/or mains work:**

In the event that SWS encounters any constraint on its proposed design and/or installation of works including but not limited to;

- a) existing main to be utilised which is unable to receive a service tapping, or
- b) unable to receive a planned connection as part of a proposed mains diversion or new mains requisition, or
- c) unforeseeable obstruction, or
- d) sustainable urban drainage installations (existing or proposed), or
- e) permeable surfaces (existing or proposed), or
- f) ground conditions.

SWS reserve the right to reconsider, redesign, and re-estimate its new mains proposals and to adjust its Offer as appropriate. Any delays to any programmes or work that are incurred as a consequence will not be accepted by SWS and they shall be the responsibility of the developer.

**25. Liability for escape of water:**

SWS accepts no liability whatsoever for any damage or loss howsoever caused to any third party construction works or programme in the event of any escape of water from SWS's apparatus.

**26. Protection of existing SWS assets:**



SWS may require the developer to enter into an Agreement to protect SWS existing mains and associated apparatus or new mains within an easement. Details of SWS requirements for this Agreement shall be obtained from SWS.

**27. Following mains installation work:**

- a) Following the completion of all mains and services installations the developer is responsible for protecting the integrity of such apparatus; particularly in the event that such apparatus has not been installed within any final permanent surface finish and/or that development works on site are still continuing.
- b) Following SWS's completion of the main(s) installation the developer will notify SWS when the permanent reinstatement surfaces have been finished; and on an agreed date meet with an SWS representative for a survey of all SWS completed work relative to the final finished surface levels. In the event that any SWS apparatus has been damaged or access to same has been compromised in any way SWS reserves the right to seek from the developer redress for any costs it may incur in rectifying any such damage and access
- c) SWS reserve the right to routinely check on the integrity of SWS's apparatus and in the event that such is found to have been compromised to arrange for immediate rectification work and to charge the developer in accordance with SWS's Third Party damage recharge process.
- d) Any reconciliation of measurement and charges on which the Offer was made will be effected by SWS on completion of all works and the agreement with the developer will be amended accordingly.

## Part Two – Terms specific to mains installation

1. New mains shall be installed with a cover depth of 750mm from the final permanent surface to crown of pipe in accordance with NJUG Guidelines on the Positioning and colour coding of Underground Utilities apparatus – issue 8: 29th Oct 2013” and any subsequent amendment thereof.
2. The Developer shall construct any permanent surface over the line of SWS's apparatus such that the final depth of shall not exceed the stipulated depths for mains and services
3. In certain circumstances relative to the design of some developments the installation of an over-sized main for a development is considered as network reinforcement to supply a larger area of development and is required to be installed within such specific development.
4. In such cases the above NJUG document is to be considered as providing minimum guidance in terms of relative positioning of new water mains to other Undertakers' apparatus. Therefore, the developer shall ensure that access to such a main be considered in any development design to allow SWS unrestricted access to affect future connections and/or repairs or alterations to the main, unhindered by the proximity of other Undertakers' apparatus. Failure to satisfy this requirement, such that SWS incurs a consequential cost to access such a main shall result in SWS seeking recovery of these costs from the developer.
5. Mains designs and installations shall comply with NJUG publication, volume 4 'Guidelines for The Planning, Installation and Maintenance of Utility Services in Proximity to Trees' together with BS 5837:2012 Trees in Relation to Construction.  
Planting often occurs after mains have been installed, but it is essential that only grass or ground cover plants with limited root systems are planted over the mains. If trees or shrubs are to be planted they are to be positioned to avoid both root damage to the main and with a consideration to mitigate problems arising from subsequent repair and maintenance excavation.

**6. Installation sequence and considerations::**

- 6.1 If other Statutory Undertakers apparatus is installed prior to water mains it may be necessary to revise the Offer to accommodate additional costs of working below and/or in proximity to other Utilities.

Before SWS commences the installation of any new mains the developer will be responsible for the following:

- a) The construction of a kerb and/or suitable permanent kerb race for use by SWS's approved Contractor to determine the 'line & level' of the required mains to accord with SWS's design layout;
  - b) Clearly marking the line and level of the back of any footpath and/or service strip in which any mains require to be installed;
  - c) Ensuring that the position of SWS's meter installation(s) shall be within the line and level of the back edge of any footpath or service strip in which they require to be installed;
  - d) Marking footpaths and/or service strips which are not adjacent to roads with suitable pegs (or pins) set in concrete to confirm the 'line and level' to be taken by SWS necessary to accord with the design layout as provided to the developer;
  - e) Sole liability for the line and level details provided by him and used by SWS in the installation of new mains and services. (SWS shall have no liability in this respect relative to its interpretation and use of the line and level details supplied by the developer).
  - f) Ensuring SWS, SWS Agents or Contractors, correctly interpret the setting out details and/or instructions provided and that the mains are laid in their correct positions and depths.
  - g) The installation of all ducts for service pipes at a 90<sup>0</sup> angle to the supply main unless otherwise detailed by SWS in its design. (The ends of all ducts must be clearly marked for ease of location at both ends).
  - h) Ensuring that the line of any proposed mains route design shall be free from all building materials and/or any other above or below ground obstructions. (This includes scaffolding, bricks, machinery etc.).
- 6.2 Any works necessary to provide any network reinforcement work to a development must be installed and commissioned prior to the commencement of any specific water mains.
- 6.3 When SWS installs and proposes to lay ductile iron or steel mains the developer shall give a minimum of at least five working days' notice to enable SWS to install 'dry leg' road prior to the commencement of road construction. The developer shall backfill and be responsible for such backfilling and construction of the road following any installation of dry-leg of mains.
- 6.4 When deemed necessary by SWS a suitable lockable compound for the storage of its materials (including pipes, bends tees, valves and the like) is to be provided by the developer for use by SWS free of charge. Advance notice will be provided in accordance with SWS requirements and any such compound will require to be placed at a location acceptable to SWS.
- 6.5 On no occasion will Southern Water be held liable for any liabilities or costs arising from a third party contractors (or developers) default under legislation governing Work in Highways
- 6.6 The Offer is conditional upon the developer confirming in writing that whenever the line of any proposed main passes within 2m to 4m of any proposed construction that either the affected construction foundations will be lowered to a depth necessary to avoid the risk of a mains burst at this location affecting the foundations, or that, alternatively, the foundations will be re-sited to avoid the risk of any mains burst at this location affecting the foundations.
- 6.7 SWS shall not install mains or accept mains installed by an SLP within 2m of any foundations. In the event that any mains finish up within 2m of any proposed and/or existing construction on any plane SWS reserves the right to seek redress from the developer for all costs associated with relocating or protecting its apparatus and for any damage caused by a main(s) burst. This right of redress in favour of SWS shall remain and be actionable for 12 years after the date of completion of construction.
7. The developer shall contact SWS at least fourteen working days prior to the proposed commencement date in confirmation that the site conforms to the above Conditions and that works can proceed as planned.
8. SWS reserve the right to levy additional charges in the event of any breach of these Conditions.